

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5221 of 2021

Arvind Prasad Son of Late baban Prasad Resident of village- Ghunsari, P.O.-
Awarhi, Police Station- Sikrol, District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The District Magistrate, Buxar, District- Buxar
3. The District Compassionate Committee, Headed by District Magistrate,
Buxar, District- Buxar
4. The District Education Officer, Buxar, District- Buxar

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Brij Mohan Kumar Singh, Advocate
For the State : Mr. Lalit Kishore (Ag)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

7 22-08-2024 Heard learned counsels for the parties.

2. Petitioner has approached this Court for the following
reliefs:-

*“(i) For quashing the order vide letter No.214 dated 27.06.2020
passed by the Respondent No.4 vide Annexure-7 cancelling the
letter of appointment of the petitioner on Class-III post vide its
letter no.31 dated 18.01.2019.*

*(ii) The payment of salary of the petitioner be given from March
2020 till the date and continued thereof, which has been stopped by
the respondent no.4 be directed to be paid.*

*(iii) Any other relief or reliefs to which the petitioner be found
entitled be given to him.”*

3. Learned counsel for the petitioner submits that earlier
petitioner filed two writ applications and one MJC for his
appointment on compassionate ground but the compassionate



appointment of the petitioner was rejected on the ground that he is the son of the second wife of his father. Therefore, he challenged the proceeding by way of filing a writ application bearing C.W.J.C. No.159 of 2009 and subsequently this Court disposed of the writ application vide order dated 19.08.2010 with a direction to the District Compassionate Committee/ respondent No.3 to consider the case of the petitioner for appointment on compassionate ground.

4. He further submits that in view of the direction of this Court, respondent no.3 considered the case of the petitioner and recommended to appoint the petitioner to Class-IV post as the appointment as Class III post was already filled up in the Education Department by appointing a lady as Class III post. The petitioner again came to this Court by filing another writ application bearing C.W.J.C. No.5999 of 2017 for a direction to recommend the name of the petitioner for appointment to the post of Class-III. The said C.W.J.C. No.5999 of 2017 was disposed of on 08.02.2018.

5. He further submits that in view of the order passed by this Court in C.W.J.C. No.5999 of 2017, petitioner made an application to the respondent no.3 and 4 and made prayer for appointment on Class-III post as per the observation of this



Court in which the post of Class-III is vacant. The writ application was disposed of with a direction to the District Education Officer, Buxar to take final decision for placing his case before the District Compassionate Committee with the period of one month from the date of production/receipt of a copy of the order passed in C.W.J.C. No.5999 of 2017 and while taking decision, the respondents are required to consider the fact that under similar circumstances others were favoured with appointment on Class-III post.

6. He further submits that when the matter was placed before the District Compassionate Committee on 20.12.2018, the Committee took the decision to appoint the petitioner on Class-III post and also communicated the same to the District Education Officer, Buxar/ respondent no.4.

7. Learned counsel for the petitioner quoted the case of **Rajesh Kumar Pathak vs. State of Bihar** filed before this Court vide C.W.J.C. No.18580 of 2019. In C.W.J.C. No.18580 of 2019, a co-ordinate Bench of this Court held that:

*“It appears that one Arvind Prasad, who was appointed like the petitioner on Class-IV post, has been treated by the respondents as blue eyed and in the case of Arvind Prasad they have taken decision to adjust him against Class-III post whereas the petitioner has been left out. Such action of the respondent-State is arbitrary and runs contrary to the law laid down by the Apex Court in the case of **Ramana Dayaram Shetty vs. The International Airport Authority of India And Ors.: AIR 1979 (SC) 1628** and reiterated in other cases in toto in the case of **Central***



Inland Water Transport Corporation Ltd. & Anr. Etc. Vs.: Brajonath Ganguly & Anr.: AIR 1986 SC 1571”.

8. He further submits that the authorities concerned considered the case of Rajesh Kumar Pathak and also reviewed the case of the petitioner and issued a letter No.214 dated 27.06.2020, terminating the service of the petitioner on Class-III post cancelling the letter of appointment letter No.31 dated 18.01.2019.

9. He further submits that the order passed by the District Education Officer, Buxar is not in accordance with law because the petitioner was appointed on the compassionate ground on the basis of Committee headed by the District Magistrate.

10. He lastly submits that there is a violation of principle of natural justice because when the order was passed, no notice was issued upon the petitioner nor any departmental enquiry was conducted by the concerned authorities.

11. Considering the facts and circumstances of the case, the order passed vide Annexure-7 and Annexure-9 is hereby quashed and in the result, this writ application stands allowed.

(Anjani Kumar Sharan, J)

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