

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4608 of 2019

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1. Piyush Kumar Mishra Son of Late Ram Nath Mishra Resident of Village- Ukredi, P.S. Kevtalia, District- Siwan.
 2. Arbind Mani Tiwari Son of Late Subash Mani Tiwari Resident of Village- Chandour, P.S. Tadwa Parsiya, District- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar and Ors Bihar
2. The Principal Secretary, Education Department Government of Bihar, Patna.
3. The Director, Primary Education Government of Bihar, Patna.
4. The District Magistrate, Siwan.
5. The District Education Officer Siwan.
6. The District Programme Officer (est.) Siwan.
7. The Block Development Officer Darauli, Siwan.
8. The Block Education Extension Officer Darauli, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Prakash Verma
For the Respondent/s : Mr.Kameshwar Kumar (Gp17)

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 04-03-2024

Heard learned counsel for the petitioners and

learned counsel for the State.

2. The petitioners have prayed for following reliefs:

“ (i) For issuance of a writ in the nature of writ of certiorari or any other appropriate writ/ order/ direction for quashing of letter contained in memo no.2511 dated 11.08.2018 issued under the signature of District Programme Officer, (est.), Siwan whereby and where under claim of the petitioner for appointments on the suitable post under the Government in regular pay scale has been rejected.

(ii) For issuance of writ in the nature of mandamus directing the respondents to consider and appoint the petitioners on the post of Assistant Teacher or any class III post under the Government in regular pay scale as has been



granted to other similarly situated persons in view of the liberty granted by the Hon'ble Supreme Court in the case of Civil Appeal No.29655 of 2010 (Rajeev Ran Vijay Kumar & Ors.v/s The State of Bihar & Ors.) and Civil Appeal No.4776-4777 of 2017 and analogous cases (Mukesh & Ors.v/s The State of Bihar & Ors.), and in accordance with an Advisory dated 12.01.2018 issued by the Education Department, Bihar, Patna when it has been resolved by the Education Department that such of the deaths which have taken place prior to 01.07.2006 and the recommendation made after the said date have to be acted upon against the post in a regular scale.

(iii) For issuance of an appropriate writ to modify and give a direction modify to the concerned respondent to make the necessary alteration in the appointment letter of the petitioners regarding appointment as a Panchayat Teacher contained in memo no.326 dated 03.05.2010 and memo no.95 dated 25.01.2008 respectively and further appoint the petitioners on the post of Assistant Teacher or any other suitable post in regular pay scale and pay the consequential monetary benefits.

iv. For of any other appropriate relief/reliefs to which the petitioner is found entitled in the facts and circumstances of this case including the cost of this litigation.”

3. Learned counsel for the petitioners submits that the petitioners' case is squarely covered by a judgment rendered by the learned Division Bench dated 18.04.2018, passed in L.P.A. No. 1472 of 2015 (The State of Bihar & Ors. vs. Rhituraj Saraubh and Anr.).

4. The father of the petitioner no. 1 was died in harness on 06.07.2001, while working as Assistant Teacher in Dhaju Singh High School, Barthuegarh, Ziradai, Siwan. After death of father of petitioner no. 1, elder brother of petitioner no. 1, namely, Brajesh Kumar Mishra, was appointed in the year 2002 as an Assistant Teacher on the basis of compassionate



ground in Girls Middle School, Darauli, District-Siwan. The elder brother of petitioner no. 1 had also died in harness on 21.06.2004, therefore, the petitioner no. 1 filed an application for appointment on compassionate ground and, thereafter, the District Education Officer, Siwan, recommended petitioner no. 1 for appointment on 05.02.2009.

5. The case of the petitioner no. 1 is not squarely covered by the judgment rendered by the learned Division Bench dated 18.04.2018, passed in L.P.A. No. 1472 of 2015, considering this fact, I am not inclined to grant any benefit to the petitioner no. 1.

6. As the case of the petitioner no. 2 is squarely covered by the judgment rendered by the learned Division Bench dated 18.04.2018, passed in L.P.A. No. 1472 of 2015, the present writ petition is disposed of in terms of the aforesaid judgment rendered by the Division Bench of this Court passed in the Case of Rhituraj Saraubh & Ors. (*supra*) and the order of the Single Bench of this Court dated 11.05.2018 passed in C.W.J.C. No. 8963 of 2018 (Chandra Shekhar Azad and Ors. vs. State of Bihar and Anr.) and the respondents are directed to grant similar benefits to the petitioner no. 2 within period of eight weeks from the date of receipt/production of a copy of this



order. Memo No. 2511 dated 10.08.2018 (Annexure-15) is hereby quashed with regard to petitioner no. 2 only and the writ petition is partly allowed.

(Anjani Kumar Sharan, J)

anand/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.03.2024
Transmission Date	NA

