

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19458 of 2015

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Shashi Kant Kumar Son of late Chandradeo Ram Resident of Village-
Lamichaur, P.s Bhore, District Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director Primary Education , New Secretariat, Govt. of Bihar, Patna.
3. The Secretary, Primary Education New Secretariat Govt. of Bihar, Patna.
4. The District Magistrate, Gopalganj, District Gopalganj.
5. The District Education Officer, Gopalganj, District Gopalganj.
6. The District Programme Officer Establishment, Gopalganj, District Gopalganj.
7. The Block Development officer, Bhore Block , District Gopalganj.
8. The Block Education officer, Bhore, Block District- Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh
For the Respondent/s : Mr. Swapnil Kumar, AC to GP 19

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 4 30-04-2024 1. Heard learned Counsel for the parties concerned.
2. The petitioner has filed the present writ application seeking a direction to the respondents to grant regular pay scale to the petitioner on the post of Block Teacher (Assistant), appointed on compassionate ground pursuant to the death of his father in harness.
3. Learned Counsel for the petitioner submits that in the light of the decision of the Supreme Court, in the case of **Vishwanath Pandey v. The State of Bihar and Others**, reported in **(2013) 10 SCC 545**, the petitioner is entitled



to be given the regular pay scale inasmuch as the petitioner's father died on 18.04.2006, i.e. prior to the coming into force of the Bihar Panchayat Primary Teachers (Appointment and Service Condition) Rules, 2006 (in short, 'the 2006 Rules'), applicable with effect from 01.07.2006.

4. The recommendation of the name of the petitioner for appointment on compassionate ground, however, was made in the year 2012.
5. Learned Counsel for the State submits that the decision cited by learned Counsel for the petitioner, in the case of **Vishwanath Pandey** (supra), is not applicable in the facts of the present case inasmuch as in the case of **Vishwanath Pandey** (supra), the Supreme Court has observed that the Rules, 2006, cannot be invoked for denying regular pay scale to the person where the recommendation for compassionate appointment has been made by the District Compassionate Committee prior to coming into force of the 2006 Rules.
6. He further submits that in yet another decision of the Supreme Court, in the case of **Mukesh and Another v. The State of Bihar and Others**, reported in (2017) 5



SCC 383, the Supreme Court has held that the candidates, who were recommended for appointment to Class III or Class IV posts prior to 01.07.2006 will either be appointed on Class III or Class IV posts on regular basis and the candidates who were appointed after 01.07.2006 will not be entitled for the relief of regular pay scales.

7. After having heard learned Counsel for the parties, I find that it is an admitted position that the petitioner's father died on 18.04.2006, however, the claim of the petitioner for appointment on compassionate ground was recommended much after coming into force of the 2006 Rules. The name of thd petitioner was recommended for appointment on compassionate ground by the District Compassionate Appointment Committee on 31.01.2012. The Deputy Secretary of the Education Department, after taking into account all the previous circulars/notifications and decisions passed by this Court as well as the Supreme Court, has come out with the notification/circular, dated 27.08.2021, stating that if the Compassionate Appointment Committee has recommended the case of the dependent of the deceased Government teacher for appointment on Class III and Class IV posts or on the



post of teacher, on compassionate ground prior to 01.07.2006, then only the appointment of such candidate shall be made on the post in the regular pay scale.

8. Accordingly, I come to the conclusion that the petitioner is not entitled to be paid the regular pay scale as the name of the petitioner was recommended in the year 2012 by the District Compassionate Appointment Committee.
9. This writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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