

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17138 of 2015

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Sangita Kumari, Daughter of Shri Anirudh Prasad Singh, Resident of Village Mahuaw, P.S. Obra, District Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
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, Aurangabad District Aurangabad.
5. The District Education Officer Aurangabad, District Aurangabad
6. The District Programme Officer(Establishment) Aurangabad District Aurangabad.
7. The Block Development Officer, Obra Block District Aurangabad.
8. The Block Education Officer, Obra Block District Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. GP-12

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 08-02-2024

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application praying for a direction to the respondents to give regular pay scale to the petitioner on her joining as Prakhanda teacher on being appointed on compassionate ground on the death of her mother during active service in the Education Department.

3. The case of the petitioner in brief is that on the



death of her mother on 18.8.2006, the petitioner was appointed as an Assistant Teacher in the Upgraded Middle School, Ganj under Block Obra on 16.12.2011. Learned counsel for the petitioner contends that consequent to the orders of the Hon'ble Supreme Court in the case of Vishwanath Pandey [S.L.P. (C) no. 5328 of 2012], the said Vishwanath Pandey was given regular pay scale though he was also appointed on compassionate ground on the death of his father while in service in the Education Department.

4. No counter affidavit has been filed on behalf of the respondents.

5. Learned counsel for the respondents submits that the Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 ('2006 Rules' in short) came into effect w.e.f 1.7.2006. Rule 10 thereof provides for compassionate appointment of the wards of teaching and non-teaching employees only on the post of Panchayat/Prakhand teacher which is to be done after obtaining their consent at a fixed monthly amount of Rs. 5,000/- or Rs. 4,000/- depending on whether the person being appointed is trained or untrained.

6. It is the case of the respondents that the mother of the petitioner having died in the year 2006, Rule 10 of the



above Rules would be applicable in her case. So far as the reliance placed by the petitioner on the case of Vishwanath Pandey is concerned, it is submitted by learned counsel for the State that the decision in the said case is distinguishable insofar as the serving Assistant Teacher in the said case had died on 14.10.2004 and the petitioner therein had filed his application on 5.2.2005 ie both before coming of the 2006 Rules. Thus it is submitted that on framing and implementation of the 2006 Rules w.e.f 1.7.2006 and the petitioner having been appointed pursuant to the provisions as provided in Rule 10 therein, there is no merit in the writ application and the same be dismissed.

7. Having heard learned counsel for the parties and having perused the material on record, it transpires that consequent to the death of the mother of the petitioner on 18.8.2006, the petitioner was appointed as an Assistant Teacher on compassionate ground on 16.12.2011. Both the death as also the appointment of the petitioner having taken place after coming of the 2006 Rules on 1.7.2006, there remains no doubt in the opinion of this Court that the appointments were made as per the provisions contained in Rule 10 of the 2006 Rules. It is not the case of the petitioner



that she did not give consent prior to her appointment as contemplated under Rule 10. Thus, in the facts and circumstances of the case, having obtained her appointment after giving her consent as contemplated under Rule 10 of the 2006 Rules, the petitioner cannot now pray for grant of regular pay scale.

8. The Court thus finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

Saurabh/-

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CAV DATE	
Uploading Date	13.02.2024
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