

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16481 of 2015

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Dhiraj Kumar, Son of Late Nand Kumar Prasad, Resident of Village- Dumri,
P.S.- Kutumba, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary
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 Program Officer Establishment, Aurangabad, District- Aurangabad.
7. The Block Development Officer, Madanpur Block, District- Aurangabad.
8. The Block Education Officer, Madanpur Block, District- Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh, Advocate
For the Respondent/s : Mr. Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 9 06-02-2024 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 his joining as Prakhanda teacher on
being appointed on compassionate ground on the death of his
father during active service in the Education Department.
3. The case of the petitioner in brief is that on the
death of his father on 6.8.2009, the petitioner was appointed



as an Assistant Teacher in the Upgraded Middle School, Jalwan under Block Madanpur on 20.12.2010. 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. 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.

5. It is categorical case of the respondents that the father of the petitioner having died in the year 2009, Rule 10 of the above Rules would be applicable in his 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.

6. Having heard learned counsel for the parties and having perused the material on record, it transpires that consequent to the death of the father of the petitioner on 6.8.2009, the petitioner was appointed as an Assistant Teacher on compassionate ground on 20.12.2010. It is the categorical case of the parties as stated in the writ petition and in paragraph no.8 of the counter affidavit of respondent no.2 that upon consent of the petitioner having been taken, he was appointed as a Prakhanda Teacher on compassionate ground vide order dated 20.12.2010 (wrongly mentioned as 31.12.2014 in the counter affidavit). The petitioner having accepted the terms of his appointment which was in accordance with Rule 10 of the 2006 Rules and having been



appointed consequent to his consent having been given to such appointment, cannot now pray for grant of regular pay scale.

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

(Partha Sarthy, J)

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