

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1491 of 2025

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Azmat Zeya Son of Late Khatibur Rab, resident of village - Ghusia, Ghosia Kala, Vikramganj, Police Station - Vikramganj, District- Rohtas at Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Additional Chief Secretary-cum-the Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Additional Chief Secretary-cum-the Principal Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
4. The Deputy Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
5. The Director, Primary Education, Education Department, Government of Bihar, Patna.
6. The District Magistrate, Kaimur at Bhabhua.
7. The District Education Officer, Kaimur at Bhabhua.
8. The District Programme Officer (Establishment), Kaimur at Bhabhua.
9. The Block Education Officer, Kudra, District - Kaimur at Bhabhua.
10. The Nagar Executive Officer, Jehanabad Kudra-cum-Member Secretary, Teacher Employment Unit, Kaimur at Bhabhua Bhabhua.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr.Government Pleader (18)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 30-01-2025 Heard Mr.Umesh Kumar Mishra, learned counsel

 appearing on behalf of the petitioner and learned GP 18 for the

 State.

2. Petitioner has *inter alia* prayed for following reliefs

in the paragraphs No.1 of the writ petition:-

*“I. For issuance of an appropriate writ in
the nature of mandamus for commanding directing the*



respondent authorities concerned to consider and appoint the petitioner on compassionate ground, as after death of his father, namely, late Khatibur Rab, who was a regular Assistant Teacher in Govt. Middle School Jehanabad, Anchal Kudra, District - Kaimur at Bhabhua, as there is no one to look after the family economically and as per the policy decision of the State Govt for betterment of the family one of the dependents of the deceased is being provided compassionate appointment and since the petitioner has applied for his compassionate appointment well within time and the authorities concerned have also considered the eligibility of the petitioner in the meeting dated 29.08.2022 and has found him to be suitable for his appointment on compassionate ground and has also taken a unanimous decision for issuance of appointment letter in his favour in the year 2022 itself but still, the appointment letter has not been issued in his favour though he is entitled to be selected / appointed on the post of teacher.

II. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider and appoint the petitioner on compassionate ground on the post of teacher or on any suitable post as the petitioner has requisite qualification to be selected / appointed on the post of teacher as he is having the qualification of B.Ed. and has also passed the Central Eligibility Test (CTET) from Central Board of Secondary Education, Delhi and after the death of his father, the petitioner has applied for his compassionate appointment in the duly prescribed format, which has been duly recommended and forwarded by concerned Headmaster but till date, the same has not been considered by the respondent



authorities concerned.

III. For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to select / appoint the petitioner on compassionate ground as similarly situated dependents have already been appointed on compassionate ground whereas the petitioner has been deprived till date for the reasons best known to the respondent authorities concerned. several

IV. For issuance of any other writ/writs, order/orders, direction/directions for which the petitioner would be entitled in the facts and circumstances of the present case”

3. Heard the parties.

4. The Apex Court relying on the ratio of ***Umesh Kumar Nagpal v. State of Haryana and Others*** reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated



objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

5. In the case of ***Jagdish Prasad v. State of Bihar*** reported in ***(1996) 1 SCC 301***, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

6. In case of ***State of U.P. v. Paras Nath***, reported in ***(1998) 2 SCC 412***, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a



Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

7. It is the case of the petitioner that father of the petitioner was a regular Assistant Teacher in Government Middle School Jehanabad, Block Kudra, District Kaimur at Bhabhua, who died in harness on 07.02.2018. The petitioner who had requisite qualification of B.Ed and CTET had applied for considering him to be appointed on compassionate ground as a teacher or on other class III or Class IV post as per the government circular dated 21.09.2020. Decision was taken by the District Compassionate Appointment Committee on 29.08.2022 and the same has been brought on record by way of Annexure P/9 series, recommending for compassionate appointment of the petitioner by the Nagar Parishad, Kaimur at Bhabhua for which the teacher employment unit is required to take decision to appoint the petitioner on any of the post as per the circular of the State Government which is applicable to the Nagar Parishad. The petitioner has already represented on



10.03.2022 (Annexure 7) before the District Programme Officer (Establishment), Kaimur, Bhabhua.

8. Considering the fact that decision of the District Compassionate Appointment Committee has already been forwarded to the Executive Officer of the Nagar Parishad, Jehanabad Kudra which calls for immediate action on part of the Executive Officer to take action to make appointment of the petitioner on any of the post for which the petitioner has applied on compassionate ground without further delay in accordance with the law laid down by the Apex Court in case of *Umesh Kumar Nagpal (Supra)*, *Jagdish Prasad (supra)* and *Paras Nath (supra)*.

9. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

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