

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5363 of 2024

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Nadeem Ahmad Son of Mumtaz Ahmad, Resident of Village- Ahiyapur, P.S.-
Maner, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Special Secretary, Department of Education, Government of Bihar, Patna.
4. The Director, Primary Education, Education Department, Government of Bihar, Patna.
5. The District Compassionate Committee, Patna through the District Magistrate-cum-Collector, Patna.
6. The District Magistrate, Patna.
7. The District Education Officer, Patna.
8. The District Programme Officer (Establishment), Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sumit Kumar Jha, Advocate Mr. Riya Giri, Advocate Mr. Rakchika Shekhar, Advocate
For the Respondent/s	:	Mr. Santosh Chandra Bhaskar, AC to GP-11

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 18-01-2025

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ application has been filed for the
following reliefs:

*(i) For issuance of appropriate writ for setting
aside Memo No. 336 dated 07.03.2019 issued by
Respondent authorities under the signature of Joint*



Secretary, Department of Education, Government of Bihar, Patna.

(ii) For issuance of an appropriate writ for quashing the Memo No. 2786 dated 24.07.2019 issued jointly by District Education Officer, Patna and District Program Officer, Patna by which the claim of compassionate appointment of the petitioner to the regular post of teacher in regular pay scale has been rejected.

(iii) For issuance of an appropriate writ for commanding and directing the respondents to appoint the petitioner to the regular post of teacher in regular pay scale with all the consequential benefits as per the recommendation of District Compassionate Committee, Patna.

3. The case of the petitioner is that he, having intermediate qualification, applied for appointment on compassionate ground as his mother, Late Mahajabin Banoo had died in harness on 26.06.2023, working on the post of teacher prior to 01.07.2006, no family member of the petitioner were in service when his father died. The District Compassionate Committee, Patna on 30.04.2007 vide Memo No. 1327 considered the case of the petitioner and recommended for his appointment on regular pay scale but the respondent authorities compelled the petitioner to join as a Panchayat Teacher on fixed remuneration on a contract



basis (Annexure P2 of the writ application) as per Bihar Panchayat Primary/Municipal Teacher (Appointment and Service Condition) Rules, 2006.

4. The petitioner being aggrieved from the appointment as a Panchayat Teacher on fixed pay, moved before this Court by filing CWJC No. 17239 of 2009, which was finally disposed of in favour of the petitioner and the Respondent authorities were directed to appoint the petitioner as per the recommendation of District Compassionate Appointment Committee within 12 days. Against the said order, the State filed LPA No.10464/ 2010 which was allowed by the Division Bench of this Court. Further, SLP No. 37983/2013 was filed by the petitioner, in which Hon'ble Apex Court observed and directed that the appellants who were recommended for appointment prior to 01.07.2006 will be appointed on Class III and Class IV posts on regular pay scale.

5. Learned counsel for the petitioner submits that in the matter of similarly situated persons, on appeal bearing LPA No. 1472 of 2015 was dismissed by the Division Bench of this Court on 18.04.2018 and decided the issue that Letter No. 38 dated 12.01.2018 binds the Respondent authorities to act on the recommendation of District Compassionate Committee. He



further submits that the petitioner's case is squarely covered by the judgment passed in LPA No. 1472 of 2015 (*The State of Bihar & Others Vs. Rituraj Saurav & Anr.*) and in CWJC No. 8963 of 2018 (*Chandra Shekhar Azad and Others Vs. State of Bihar and Others*).

6. It is further submitted that the petitioner filed a representation dated 15.05.2019 before the Respondent authorities on which no decision was passed. Thereafter, petitioner filed contempt application bearing MJC No. 814 of 2020 and during the pendency of the application, the respondent authorities rejected the representation via Memo No. 2786 dated 24.07.2019. Further, the contempt application was disposed of by this Court with a liberty to challenge Memo No. 2786 in a separate writ petition. The petitioner filed various representation before the respondent authorities but no decision has been taken. Hence, this writ application.

7. Having heard learned counsel for the parties and from perusal of the case record, I find that the Principal Secretary, Education Department has not considered the case of the petitioner in view of the law laid down by the Hon'ble Apex Court and the judgment passed by this Court as aforesaid.

8. In view of the aforesaid discussions, I have no option but



to set aside the order dated 07.03.2019 passed by the Respondent authorities under the signature of Joint Secretary, Education Department, Government of Bihar. The Respondent authorities are directed to grant the regular pay scale to the petitioner. The petitioner is also entitled to consequential/monetary benefits admissible to him in accordance with law.

9. With the aforesaid observations and directions, this writ petition is allowed.

(Anjani Kumar Sharan, J)

priyanka/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	31.01.2025
Transmission Date	N/A

