

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10245 of 2021

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Ram Sakal Yadav Son of Rajbanshi Yadav Resident of village- Rampur Kala,
P.o.- Belahi Khas, P.s.- Kateya, District- Gopalganj

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
2. The Director, Primary Education, Education Department, Government of Bihar, Patna
3. The District Magistrate, Gopalganj
4. The District Education Officer (DEO) Gopalganj
5. The District Programme Officer (Establishment) Gopalganj
6. The Secretary Block Employment Committee cum Block Development Officer (BDO), Block- Kateya, District- Gopalganj
7. The Block Education Officer, Block - Kateya, District- Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sharma, Advocate
For the Respondent/s : Mr. Madanjeet Kumar, GP 20

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 04-08-2025 Heard Mr. Rajesh Kumar Sharma learned counsel

 appearing on behalf of the petitioner and Mr. Madanjeet Kumar

 learned GP 20 for the State.

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

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

“A. For issuance of writ in nature of mandamus to quash order dated 21-12-2020 contained in Memo No.2182 passed by the respondent no.5, whereby and whereunder the respondent authority mechanically rejected legal claim of petitioner for compassionate appointment on the post of Prakhanda Teacher, without considering facts that the petitioner wife namely Late Yadav Pratima Parmeshwar was working on the post of Prakhanda Teacher at Upgraded Middle



School, Dumraina, Block- Kateya, Gopalganj and in continuation of her service died in harness on 20-07-2017, as such Hon'ble Court may sympathetically consider legal claim of petitioner.

B. For issuance of a writ in nature of mandamus for direction to the respondent authority to consider legal claim of compassionate appointment of petitioner in terms of guideline & direction issued by the General Administration Department, Govt. of Bihar vide Letter No.22/Anu-05/2012-11462 Sa Pra- 11462 dated 24-08-2016 wherein a direction was given for consideration of compassionate appointment claim on the basis of educational qualification on Grade pay Rs. 2000/- (matric passed), Grade pay of Rs.1900 & Grade pay of Rs.2000/- (matric and above qualification).

C. And for any other relief/reliefs for which the petitioners are found to be entitled under the provision of law involved in the present case.”

3. A counter affidavit has been filed on behalf of the respondents and it has been stated that the case of the petitioner on compassionate ground as Block Teacher was rejected on the ground that petitioner on the date he had applied was found that he had not passed teacher eligibility test or teachers training examination which are required in terms of Bihar Teacher Employment Rules, 2006 and amended Rule 2012. In paragraph no.8 of the counter affidavit, a ground has also been taken that the State Government has now come up with new rule known as Bihar State School Teacher (Appointment Transfer, Disciplinary Proceeding and Service Conditions) Rules, 2023 and as per Clause 19(ii) of the said Rule, no new appointment can be made after the date of enactment of the said Rules.

4. The petitioner has not made out a clear cut case for



having been appointed on compassionate ground. The law in this regard is well settled by the Apex Court in case of *the Secretary To Govt. Department Of Education (PRIMARY) & Ors. Vs. Bheemesh Alias Bheemappa (Civil Appeal No.7758 of 2021) arising out of Special Leave Petition (c) No.1564 of 2021*. The Apex Court held that the date of death is important which has to be taken into account while considering for appointment on the ground of compassionate ground. In the present case, the wife of the petitioner had died on 20.07.2017. The prevalent Rule on the said date in force was Bihar Panchayat Elementary Teachers (Employment and Service Conditions) Rules, 2012 and in accordance with the said Rules and the law laid down by the Apex Court in case of **Bheemapa (supra)**, the case of the petitioner for compassionate appointment can be considered.

5. It is made clear that the wife of the petitioner was a Niyojit Teacher and it is a separate cadre as has been held by this Court in case of *CWJC No. 1942 of 2024 (Pramod Kumar Yadav vs. the State of Bihar & Ors.)*.

6. In above background, I find that the order contained in Memo No.2182 dated 21.12.2020 (Annexure 4) having not considered this aspect of the matter, the case is now



remitted back to the appointing authority for considering the case of the petitioner afresh in light of the law laid down by the Apex Court in case of **Bheemapa (supra)**.

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

(Purnendu Singh, J)

Sanjay/-

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