

(2010) 01 PAT CK 0003
In the Patna High Court

Janardan Singh and Others		APPELLANT
	Vs	
The State of Bihar and Others		RESPONDENT

Date of Decision : 08-01-2010

Acts Referred:

Citation : (2010) 01 PAT CK 0003

Hon'ble Judges : Mridula Mishra, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mridula Mishra, J.—Petitioners in these writ applications are the dependents and legal heirs of Assistant Teachers, who died in harness, while working in Primary and Middle Schools. In case of some of the petitioners recommendation was made by the District Compassionate Appointment Committee for their appointment on Class III Government posts considering their educational qualification. In some cases ignoring the recommendation of the District Compassionate Appointment Committee for petitioners' appointment on Class III posts, they have been appointed on the post of Panchayat Teachers/Block Teachers in the fixed salary. In other cases the applications filed by the petitioners have been returned, in view of the order issued by the Deputy Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna vide letter No. 2955 dated 22.6.2009, whereby the Deputy Secretary, Department of Personnel and Administrative Reforms has directed the District Compassionate Appointment Committee not to recommend for compassionate appointment in case of legal heirs of teachers and non teaching employees in Primary and Middle Schools on any Government Class III and Class IV posts. In some cases petitioners having no option have been joined on Panchayat Teachers and Prakhhand Teachers in the fixed salary, but they have moved before this Court for a direction to the respondents to appoint them on compassionate ground on any Class III/Class IV Government posts as per their eligibility and recommendation of the District Compassionate Appointment

Committee or allowed them to regular pay scale of a government employee.

2. The issues, which are related in all these writ applications, have already been decided by this Court in C.W.J.C. No. 10616 of 2009 and Analogous cases. In these writ applications it has been held that Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules, 2006 relating to appointment and service conditions of teachers in Primary and Middle Schools at Panchayat/Prakhand level will not have any application in the case of Assistant Teachers, who died in harness and their representatives have been governed by a separate service conditions rule. It has also been held that only such teachers, who were, however, appointed on or after 1.7.2006 or absorbed on 1.7.2006 under the Rules provided under Bihar Panchayat Primary Teachers (Appointment and Service Conditions) Rules will be governed by the definition of teacher under Rule 2(iv) of 2006 Rules. Petitioners not have legal heirs of teachers, who will come within Rule 4 of 2006 Rules. In their cases, the direction issued by the Deputy Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna vide letter No. 2955 dated 22.6.2009 will not have any application. It has also been held in this case that classification can be made only when employees fall into two different classes. Assistant, Teachers appointed prior to 2006 Rules cannot be brought in the same class in which the teachers appointed under 2006 Rules have been put.

3. Discussing all relevant rules and law, finally a direction has been issued to the respondents to consider the case of the petitioners' appointment in the light of letter No. 6905 dated 17.10.2008 issued by Personnel and Administrative Reforms Department, Government of Bihar, Patna, where it has clearly been pointed out that the posts of Panchayat/Prakhand/Nagar Shikshaks are not the posts under the State Government and with respect to such posts the District Compassionate Committee cannot make any recommendation since it is beyond the jurisdiction of the District Compassionate Appointment Committee. Further direction has been issued to appoint the petitioners on the Government posts as per the recommendation of the District Compassionate Appointment Committee and allow regular pay scales of an Assistant Teacher. In such cases, where the application of the petitioners have been returned by the District Compassionate Appointment Committee, a direction has been issued to recall such applications filed by the petitioners for the compassionate appointment and make recommendation considering the qualification on any Class III or Class IV posts. A direction has also been issued in respect of such petitioners, who have no any option, have joined on the post of Panchayat/Prakhand teachers on a fixed salary, to make payment of salary in the regular scale and also to make payment of arrears of salary in the regular scale.

4. All these writ applications are allowed giving similar directions as mentioned above. The respondents will comply the direction of this Court in case of the petitioner as in the earlier writ applications. These writ applications were decided in the judgment passed in C.W.J.C. No. 10616 of 2009 and Analogous cases will

apply in case of all similarly situated persons. As directed earlier, there should not be any undue delay in compliance of the direction of this Court, preferably the direction of this Court should be complied with within twelve weeks from the date of production/communication of this order.