

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17430 of 2008

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Upendra Kumar son of Late Dayanand Singh, Resident of Village Aiyara,
P.S. karpi, District Arwal.

.... Petitioner/s

Versus

- 1.The State of Bihar.
- 2.The District Magistrate, Jamui.
- 3.The Superintendent of Police, Jamui.
- 4.The Jail Superintendent, Jamui.

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 28-07-2015 Heard learned counsel for the parties.

The petitioner claiming to be the eldest son of late Dayanand Singh, a warden in district jail, Jamui, has sought a direction for his appointment on compassionate ground claiming that his father had died in active service on 04.03.2007. According to learned counsel for the petitioner, though the petitioner had filed his application for appointment on compassionate ground enclosing the affidavit of his mother Lalmani Devi dated 22.09.2008 but then the petitioner despite being the eldest son has not been appointed on compassionate ground.

The respondents in the counter affidavit have come out to say that the entire family including the



widow of late Dayanand Singh had nominated Virender Kumar, the second son, for his appointment on compassionate ground and the widow has stated that her son, the petitioner is not only married but living separately with his children and the appointment of Vijendra Kumar on compassionate ground will be more in the interest of the family members. The process of appointment of Vijendra Kumar on compassionate ground has been completed or at the final stage when this counter affidavit was filed on 22.05.2009, enclosing the proceeding of the District Compassionate Appointment Committee.

Though, the circular of the State Government does not lay down that which son has to be appointed but normally the eldest son will have precedence in appointment but then for special reasons, if the family members like in the present case have decided to give compassionate appointment to Vijendra Kumar, that cannot be said to be bad specially when Vijendra Kumar

also has not been made party to this writ application.

Learned counsel for the parties are not aware as with regard to the final decision taken in the matter of appointment of Vijendra Kumar or not. Thus all that can be said is that if Vijendra Kumar has not been appointed as yet and if the petitioner's application also in the prescribed proforma was filed within the period of limitation for appointment on compassionate ground, his case may be processed but if Vijendra Kumar has already been appointed, there would be no question to consider the case of the petitioner. Similarly, if the petitioner has not filed his application in the prescribed proforma within a period of five years, there would be again no reason for consideration of his case.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

Ranjan/-

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