

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1713 of 2014

IN

Civil Writ Jurisdiction Case No. 18245 of 2010

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1. Mahesh Pandit, Son of Late Ramchandra Pandit, Resident of
Village - Barji, P.S. Motipur, District - Muzaffarpur.

.... Appellant

Versus

1. The State of Bihar.
2. The Principal Secretary, Personnel and Administrative Reforms
Department, Government of Bihar, Patna.
3. The District Magistrate, Muzaffarpur.
4. The District Establishment Deputy Collector, Muzaffarpur.
5. The District Public Officer, Irrigation Department, Muzaffarpur.

.... Respondents

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Appearance :

For the Appellant : Mr. Jai Prakash Verma, Advocate

For the Respondents : Mr. Rajesh Ranjan, AC to GA 8

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI

AND

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

CAV JUDGMENT

**(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH)**

Date: 23-01-2015

The appellant, in the present appeal under Clause-10 of the Letters Patent of this court, has questioned the order, dated 17.06.2014, passed by a learned single Judge of this Court, in CWJC No. 18245 of 2010, whereby the appellant's challenge to an order, dated 21.07.2009, passed by respondent No.4 herein, rejecting his claim for appointment on compassionate ground on

account of sudden death of his father, has been turned down.

2. The appellant's father, Late Ramchandra Pandit, is said to have died in harness on 11.08.2007, while working as Amin in the district of Muzaffarpur. Claiming to be dependant of the deceased employee, the appellant filed an application for his appointment on compassionate ground. From a communication, vide Memo No. 565, dated 21.07.2009 (Annexure-4 to the writ petition), which was impugned in the writ application filed by the appellant under Article 226 of the Constitution of India, it will appear that the appellant's application for his appointment, on compassionate ground, was placed before the District level Compassionate Appointment Committee, Muzaffarpur (hereinafter referred to as 'the Committee'), on 29.06.2009. Considering the fact that petitioner's brother was gainfully employed as Panchayat Teacher, the Committee, relying upon certain orders of this Court, decided to reject the appellant's application. The said decision of the Committee was communicated to the appellant through the aforesaid letter issued, vide Memo No. 565, dated 21.07.2009.

3. Upon challenge having been made by the appellant to the said decision of the Committee, as



contained in Memo No. 565, dated 21.07.2009, by filing writ petition, giving rise to CWJC No. 18245 of 2010, a learned single Judge of this Court dismissed the said writ application by the order under appeal, dated 17.06.2014, relying upon a Division Bench order of this Court in **Vishal Kumar v. the State of Bihar & Others**, reported in **2004 (2) PLJR 453**.

4. Questioning the order of learned single Judge, Mr. Jai Prakash Verma, learned counsel appearing on behalf of the appellant, has placed reliance upon a division Bench order of this Court **Anil Kumar v. the State of Bihar & Others**, reported in **2007 (4) PLJR 511**. Learned Counsel has also relied on a decision of the Supreme Court in **Govind Prasad Verma vs. LIC of India**, reported in **(2005) 10 SCC 289**, in support of his contention and has submitted that the authorities committed error by taking into account the amount of terminal benefits, which were being paid to the widow of the deceased employee, as reason/ground for rejecting the appellant's application for appointment on compassionate ground.

5. The facts, as noted above, which have been recorded by learned single Judge, are not in dispute. This is also not in dispute that the widow of the deceased

employee is receiving family pension and the petitioner's brother is gainfully employed.

6. In our opinion, the facts of the present case are squarely covered by the Division Bench order of this Court in **Vishal Kumar** (supra). Paragraphs 3 and 4 of the said order read thus:-

"3. The matter relates to seeking a job in the Rural Engineering Organization Department. The job was denied by the Committee on the ground that the elder brother of the appellant had been gainfully employed in the State Bank of India. The contention of the appellant is to the effect that his brother and father were separate and evidence was offered, to the effect, that this was so.

4. The court is afraid, this logic of law will not apply for if there will be rivalry within the family as in the present case between the father and the son or between siblings, a job can be offered on the principle of compassionate appointment only to

one person and when one is gainfully employed, there is no obligation to offer a job in an otherwise backdoor entry employment."

7. In our opinion, the case of **Anil Kumar** (supra), relied upon by learned counsel for the appellant, will have no application to the facts and circumstances of the present case inasmuch as the Division Bench of this Court, in **Anil Kumar** (supra), was faced with a situation, where the relationship between the husband and wife was not found to be congenial. In such circumstance, this Court had remanded the matter back to the authorities for reconsidering the matter.

8. The order of the Supreme Court in **Govind Prakash Verma** (supra) will also have no application to the facts and circumstances of the present case inasmuch as in **Govind Prakash Verma** (supra), the elder brother of the applicant was found to be engaged in cultivation, which was not treated to be gainful employment. The Supreme Court also took into account the fact, in that case, that there was no material on record that brother of the claimant, for compassionate appointment, was engaged as regular painter. The facts, in the present case, are different. The petitioner's brother, admittedly, works

as Panchayat Teacher on regular basis.

9. We, accordingly, find no infirmity in the order, which is under appeal. The appeal is, accordingly, dismissed.

10. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J.)

I. A. Ansari, J.: I agree.

(I. A. Ansari, J.)

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