

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1717 of 2011

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Purushottam Din Dayal S/o Late Ayodhya Prasad Singh Resident of
Village- Sugia, P.S- Shekhopur Sarai, District- Sheikhpura.

.... Petitioner

Versus

1. The State of Bihar
2. District Magistrate, Sheikhpura.
3. Principal Secretary Human Resources Development Department, Govt.
of Bihar, Patna.
4. Director, Primary Education, Bihar, Patna.
5. District Superintendent of Education, Shekhpura.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj

For the Respondent/s : AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 23-11-2015 Heard Sri Abhijay Raj, learned counsel for the
petitioner and learned A.C. to Principal Addl. Advocate General.

The petitioner, invoking writ jurisdiction of this Court
under Article 226 of the Constitution of India, has prayed for
directing the respondents to appoint him on compassionate
ground, since his father, who was in government service, died in
harness. He has also prayed for setting aside order dated
21-07-2004, 16-10-2004, 14-12-2005 and 03-07-2010. However,
in the writ petition, save & except order dated 21-07-2004 &
06-10-2004, no other order has been brought on record.

Short fact of the case is that the petitioner's father,
who was working as Assistant Teacher in Lower Primary School,



Dharampour, Sheikhpura died in harness on 24-10-2002. Subsequently, petitioner's case was considered by the District Compassionate Appointment Committee alongwith others for appointment on compassionate ground. From **Annexure – 1** to the writ petition i.e. decision of the Compassionate Committee dated 21-07-2004, it is evident that case of petitioner was turned down on the ground that elder son of the deceased employee was in the government service of Air Force.

Learned counsel for the petitioner submits that one another candidate namely Anil Kumar Paswan, whose case was rejected on the same ground, was subsequently considered and he was provided employment on compassionate ground. He has placed reliance on **Annexure – 3** to the writ petition. He submits that in case of said Anil Kumar Paswan, earlier his case was turned down on the ground that his elder brother was in government service, however; subsequently vide **Annexure – 3**, his case was considered and he was provided employment. Learned counsel for the petitioner submits that rejection of the claim for appointment only on the ground that one of the family member was in service was not tenable. In support of his argument, he has placed reliance on **Annexure – 7** to the writ petition i.e. a copy of order dated 18-08-2011 passed in C.W.J.C.



No. 15600 of 2009. According to learned counsel for the petitioner, it is true that his elder brother was in Air Force, he was not taking care of the family and he was separated from the family and as such, the petitioner is entitled for appointment on the compassionate ground. On aforesaid ground, a prayer has been made to allow the writ petition and after setting aside impugned order, direction may be given to appoint the petitioner.

In this case, counter affidavit has been filed on behalf of respondent.

Learned A.C. to Principal Addl. Advocate General submits that the father of the petitioner died long back in the year 2002 and by efflux of time in respect of providing employment on compassionate ground to the family member of deceased teacher now policy has been changed. Besides this, he submits that though the petitioner has claimed that one Anil Kumar Paswan was appointed, though his elder brother was in service, the said Anil Kumar Paswan has not been implemented as party in the present writ petition.

Besides hearing, I have also perused the materials available on record. On perusal of the impugned order i.e. **Annexure – 1** to the writ petition, it is evident that claim of the petitioner for appointment on compassionate ground was rejected

long back in the year 2004 itself, in view of the fact that his elder brother was in service.

Fact remains that the petitioner is claiming appointment on compassionate ground, which was rejected long back in the year 2004. The appointment on compassionate ground is an exception to Article 14 and 16 of the Constitution of India. One, as a matter of right may not claim appointment on compassionate ground. The purpose for providing employment on compassionate ground is to provide immediate financial assistance to the family of the deceased employee.

In the present case, the claim of the petitioner was rejected long back in the year 2004 primarily on the ground that his elder brother was already in government service. The petitioner approached this Court in the year 2011. So far as claim of petitioner that one another person namely Anil Kumar Paswan was appointed on compassionate ground, even though his elder brother was in service is concerned, on perusal of **Annexure – 3** to the writ petition, it is evident that earlier his case was rejected, however; subsequently the representation was filed and the authority concerned were satisfied that elder brother of said Anil Kumar Paswan was already separated. In this case, on this very point, no such specific plea was taken, though, the claim was

rejected in 2004 itself. Moreover, the said Anil Kumar Paswan is not a party in the present writ petition and as such, the petitioner may not claim parity with the case of Anil Kumar Paswan.

Keeping in view the fact that death of father of the petitioner had occurred in the year 2002 itself and for the first time, the claim of the petitioner was rejected in 2004 and the petitioner approached this Court after several years i.e. 2011, I do not find any ground to pass any positive order in favour of the petitioner.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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