

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2752 of 2011

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Raj Ballabh Singh S/o Lt. Shiv Nath Singh R/o Village Bijara, P.S.
Karamchat, District Kaimur (Bhabua)

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary, Water Resources Department, Bihar, Patna
3. The Chief Engineer, Water Resources Department, Dehri
4. The Executive Engineer, Sone High-gratted Canal Division, Sasaram
5. The Collector, Rohtas at Sasaram
6. The Deputy Development Commissioner, Rohtas at Sasaram
7. Director, National Employment Agenda Rohtas, Sasaram
8. The District Welfare Officer, Rohtas at Sasaram
9. The Deputy Collector, Establishment Rohtas at Sasaram

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ravi Shankar Sahay

For the Respondent/s : Mr. Vishambhar Pd. AC to AAG9

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6. 07-12-2015 Heard Sri Ravi Shankar Sahay, learned counsel for the
petitioner and learned A.C. to Addl. Advocate General – 9.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has made a prayer for directing the respondents to consider his case for appointment on compassionate ground. The father of the petitioner, who was a Class IV employee in the Irrigation Department, died on 17-03-2001.

It was submitted by learned counsel for the petitioner that after the death of father of the petitioner, the petitioner applied



for appointment on compassionate ground. The case of the petitioner alongwith others was considered by the District Compassionate Appointment Committee and recommendation was made by the Compassionate Committee for appointing the petitioner, vide **Annexure – 1** to the writ petition. He submits that even though recommendation was made, in view of decision of the Committee dated 12-04-2003, the recommendation was not given effect to. Thereafter, at much belated stage in the year 2006, a communication has been issued by the Chief Engineer to the Executive Engineer, Sone Canal Division, Rohtas wherein, it has been indicated that the petitioner does not deserve to be appointed on compassionate ground, in view of absence of requisite qualification. It has been argued that before appointment, verification of educational qualification was made from the concerned school, thereafter, the Head Master of the school issued **Annexure – 3** to the writ petition to corroborate the fact disclosed in the letter no. 47 dated 11-07-2001, which shows that the petitioner has passed Class VIII examination. On the ground that the name of petitioner was recommended by the District Compassionate Appointment Committee, the appointing authority was required to issue appointment letter, but illegally his case has been turned down.

In this case, counter affidavit and supplementary counter affidavit has been filed on behalf of respondent no. 4 and thereafter, another counter affidavit has been filed on behalf of respondent no. 5 & 9.

Learned A.C. to Addl. Advocate General – 9 at the very outset raised preliminary objection on the point of maintainability of the writ petition. He submits that ofcourse by issuance of **Annexure – 2** to the writ petition, the claim of petitioner for appointment on compassionate ground was rejected, in the writ petition, there is no pleading for quashing of **Annexure – 2**. He further submits that it is true that in the recommendation made by the District Compassionate Appointment Committee, it has been mentioned that the petitioner was Class VIII pass, but subsequently, an enquiry was conducted to this effect. Besides this, a report was also called for from the concerned school, which categorically suggests that the petitioner was Class VI pass, not Class VIII. Though, counter affidavits were filed long back, it has not been replied by the petitioner, however; learned counsel for the petitioner tried to persuade the Court that paragraph 7 & 8 of the writ petition as well as Annexure 3/B to the writ petition corroborate the fact that the petitioner has passed Class VIII examination.

Fact remains that the father of the petitioner died long back in the year 2001. Thereafter, the claim of petitioner for being appointed on compassionate ground was rejected in the year 2006, vide **Annexure – 2** to the writ petition, on the ground that he was not having requisite qualification. The said order was issued in the year 2006 and after lapse of several years, the present writ petition was filed in the year 2011, that too without assailing the order, whereby the cause of action arose to the petitioner.

The Court is of the considered opinion that appointment on compassionate ground is to be provided with a view to give immediate financial assistance to the family of the deceased employee and such appointment is an exception to Article 14 & 16 to the Constitution of India. Moreover, since in the present writ petition on oath by respondents, it has been stated that the petitioner was not Class VIII pass as well as the fact that the petitioner has not assailed **Annexure – 2** to the writ petition, whereby his case was turned down in the year 2006, no relief can be granted.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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