

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10371 of 2012

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Rajesh Kumar Ram son of Late Shaukhi Ram, resident of village- Narkatia,
PO-Babhangama, PS-Mejarganj, District Sitamarhi (Bihar).

.... Petitioner/s

Versus

1. Uttar Bihar Gramin Bank through its General Manager, Head Office Kalambag Chowk, PS- Kazimohammadpur, District- Muzaffarpur.
2. General Manager, Uttar Bihar Gramin Bank, Head Office Kalambag Chowk, PS - Kazimohammadpur, District- Muzaffarpur.
3. Chairman, Uttar Bihar Gramin Bank, Head Office Kalambag Chowk, PS - Kazimohammadpur, District- Muzaffarpur.
4. General Manager (Personal), Uttar Bihar Gramin Bank, Head Office Kalambag Chowk, PS - Kazimohammadpur, District- Muzaffarpur.
5. Senior Manager (Personal), Uttar Bihar Gramin Bank, Head Office Kalambag Chowk, PS- Kazimohammadpur, District- Muzaffarpur.

.... Respondent/s

With

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Avinash Kumar S/o Bhola Sharma, R/o village- Jitwarpur (Nizamat Ward No.1, P.S.- Samastipur (Mufassil), District- Samastipur.

.... Petitioner/s

Versus

1. Uttar Bihar Gramin Bank through its General Manager Head Office Kalambag Chowk, Police Station- Town Thana, Muzaffarpur, District- Muzaffarpur.
2. General Manager, Uttar Bihar Gramin Bank, through its General Manager Head Office-Kalambag Chowk, Police Station- Town Thana, Muzaffarpur, District- Muzaffarpur
3. Chairman, Uttar Bihar Gramin Bank, through its General Manager Head Office Kalambag Chowk, Police Station- Town Thana, Muzaffarpur, District- Muzaffarpur
4. General Manager (Personal), Uttar Bihar Gramin Bank through its General Manager, Head Office Kalambag Chowk, Police Station- Town Thana, Muzaffarpur, District- Muzaffarpur
5. Senior Manager (Personal), Uttar Bihar Gramin Bank through its General Manager Head Office Kalambag Chowk, Police Station- Thana, Muzaffarpur, District – Muzaffarpur.

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.10433 of 2012

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Kunal Kumar Son of Late Bindeshwari Sahanim, resident of Sikandarpur, Kandal, Post Office- Head Post Office Muzaffarpur, Police Station - Town Thana Muzaffarpur, District – Muzaffarpur.

.... Petitioner/s



Versus

1. Uttar Bihar Gramin Bank, through its General Manager, Head Office Kalambag Chowk, Police Station - Town Thana Muzaffarpur, District – Muzaffarpur
2. General Manager, Uttar Bihar Gramin Bank, Head Office , Kalambag Chouk, Police Station - Town Thana Muzaffarpur, District - Muzaffarpur
3. Chairman, Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk, Police Station - Town Thana Muzaffarpur, District - Muzaffarpur
4. General Manager (Personal), Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk, Police Station - Town Thana Muzaffarpur, District – Muzaffarpur
5. Senior Manager (Personal), Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk , Police Station - Town Thana Muzaffarpur, District – Muzaffarpur

.... Respondent/s

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with

Civil Writ Jurisdiction Case No.10491 of 2012

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Om Prakash Kumar Son of Late Birendra Prasad Singh, resident of at and P.O.- Narha, Village- Riga, Police Station- Majarganj, District- Sitamarhi.

.... Petitioner/s

Versus

1. Uttar Bihar Gramin Bank, through its General Manager, Head Office Kalambag Chowk, Police Station- Town Thana Muzaffarpur, District- Muzaffarpur
2. General Manager, Uttar Bihar Gramin Bank, Head Office, Kalambag Chouk, Police Station- Town Thana Muzaffarpur, District- Muzaffarpur
3. Chairman, Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk, Police Station- Town Thana Muzaffarpur, District- Muzaffarpur
4. General Manager (Personal), Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk, Police Station- Town Thana Chouk, Police Station- Town Thana Muzaffarpur, District- Muzaffarpur
5. Senior Manager (Personal), Uttar Bihar Gramin Bank, Head Officer, Kalambag Chouk, Police Station- Town Thana Muzaffarpur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

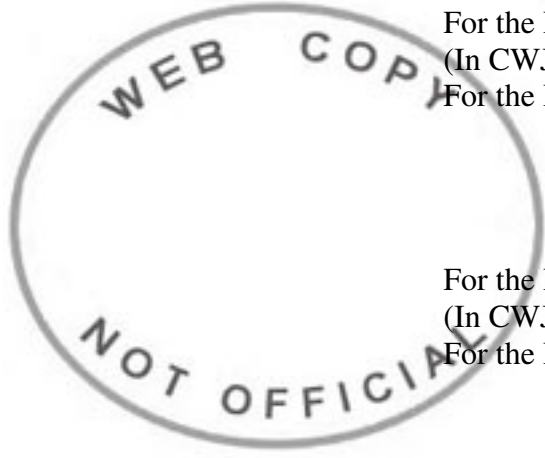
(In CWJC No.10371 of 2012)

For the Petitioner/s : Mr. Yugal Kishore, Sr. Adv.
Mr. Virendra Prasad, Adv.
Mr. Nutan Sahay, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Dinesher Tiwary, Adv.

For the Respondent/s : Mr. Prabhakar Jha

(In CWJC No.11198 of 2012)

For the Petitioner/s : Mr. Yugal Kishore, Sr. Adv.
Mr. Virendra Prasad, Adv.



Mr. Nutan Sahay, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Dinesher Tiwary, Adv.
For the Respondent/s : Mr. Prabhakar Jha
(In CWJC No.10433 of 2012)
For the Petitioner/s : Mr. Yugal Kishore, Sr. Adv.
Mr. Virendra Prasad, Adv.
Mr. Nutan Sahay, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Dinesher Tiwary, Adv.
For the Respondent/s : Mr. Prabhakar Jha
(In CWJC No.10491 of 2012)
For the Petitioner/s : Mr. Yugal Kishore, Sr. Adv.
Mr. Virendra Prasad, Adv.
Mr. Nutan Sahay, Adv.
Mr. Sanjay Kumar, Adv.
Mr. Dinesher Tiwary, Adv.
For the Respondent/s : Mr. Prabhakar Jha

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 28-01-2015

Heard the parties.

As the identical question has been raised in all cases and,
as such, all the cases are being disposed of by a common order.

In the present case, petitioners have raised the issue of
granting the relief of compassionate appointment, as their fathers died
in harness and all are covered under the scheme of compassionate
appointment.

In CWJC No. 10371 of 2012 (Rajesh Kumar Ram Vs.
Uttar Bihar Gramin Bank & Ors.), father of the petitioner has died on
19th October 2005 and the application for compassionate appointment
was filed on 22nd November 2005. In CWJC No. 11198 of 2012
(Avinash Kumar Vs. Uttar Bihar Gramin Bank & Ors.), father of the



petitioner has died on 4th January 2006 and the application for compassionate appointment was filed on 25th January 2006. In CWJC No. 10433 of 2012 (Kunal Kumar Vs. Uttar Bihar Gramin Bank & Ors.), father of the petitioner has died on 13th April 2004 and the application for compassionate appointment was filed on 9th July 2004 and in CWJC No. 10491 of 2012 (Om Prakash Kumar Vs. Uttar Bihar Gramin Bank & Ors.), father of the petitioner has died on 13th September 2004 and the application for compassionate appointment was filed on 9th November 2004.

The counsel for the petitioners submits that in stead of granting compassionate appointment, it has been informed that in view of new scheme, compassionate appointment cannot be granted but be paid the *ex-gratia* amount.

Petitioners approached the authority concerned and when they did not get any favorable result, they approached this Court by filing writ applications.

Rajesh Kumar Ram approached this Court in CWJC No. 6943 of 2010 which was disposed of on 23rd April 2010 with a direction to consider his case for compassionate appointment. Avinash Kumar approached this Court in CWJC No. 8056 of 2010 which was disposed of on 18th May 2010. Kunal Kumar approached this Court in CWJC No. 3799 of 2010 which was disposed of on 22nd March 2010

and Om Prakash Kumar approached this Court in CWJC No. 7552 of 2010 which was disposed of on 3rd May 2010.

All the writ applications have been disposed of in terms of judgment passed in CWJC No. 18122 of 2009 (Manoj Kumar Vs. Uttar Bihar Kshetriya Gramin Bank) but that judgment was subject matter in LPA No. 719 of 2010 where in Division Bench, this Court has held in which I am also a party even in the pending application, new scheme will be applicable, will be entitled to ex-gratia payment in place of compassionate appointment. The Division Bench in Manoj Kumar case held judgment of Kiran Sinha Vs. State Bank of India to be *per incuriam*. This Court would have gone along with judgment of Manoj Kumar but has great reservation to follow the Manoj Kumar Case in view of some facts makes this case different in view of following facts.

One Mamta Verma moved before this Court in CWJC No. 1931 of 2004 where this Court has held that in the pending application of compassionate appointment, new scheme of compassionate appointment will apply that was challenged before the Division Bench in LPA No. 626 of 2004 (Vaishali Kshetriya Gramin Bank & Ors. Vs. Mamta Verma) there the statement was made that the Board of Directors was in *seisin* of the matter as embargo imposed on appointment on compassionate ground has been withdrawn, the

Board will consider the cases. Had there been an appointment of Mamta Verma in pursuance of the undertaking that was given to the Division Bench, the matter would have ended. The Bank cannot claim the pick and choose in the matter of implementing the scheme.

It appears from the record there was no direction for appointment of Mamta Verma on compassionate ground but two letters issued by Bank makes the situation complex. The Bank issued letter dated 7th January 2006 there it has been mentioned in view of new Model Scheme issued by Government of India, she can apply for the *ex-gratia* lump sum amount, story does not stop here but later on, vide order dated 11th November 2011, the Bank itself reviewed his earlier decision, extended the benefit of appointment on compassionate ground. Similarly the Bank extended the benefit of compassionate appointment to Ravi Bhusan.

In paragraph 16, it has been specifically mentioned that Mamta Verma has been provided appointment on compassionate ground in view of the direction of this Court. Ravi Bhushan also came to this Court in LPA No. 620 of 2010 which was disposed of on 25th March 2011 by this Court and the Bank extended the benefit of compassionate appointment on 11th November 2011.

The Bank was required to maintain uniformity, they cannot keep a different scale for calibration of same class of persons,

at one place, in view of new scheme the benefit of compassionate appointment has not been extended to petitioner asking petitioner to apply for ex-gratia amount. With respect to similarly situated persons, Bank extended the benefit of compassionate appointment, two equals cannot be treated unequally which is violative of Article 14 of the Constitution of India which is not permissible in the eye of law.

In that view of the matter, this Court directs the authority of the Bank to consider the case of the petitioner in the light of above. All process should be completed within a period of six months from the date of receipt or production of a copy of this order.

Accordingly, these petitions are allowed.

(Shivaji Pandey, J)

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