

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6325 of 2011

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Santosh Kumar Sah, Adopted Son of Late Mohan Sah, resident of Village
+P.O.Panditpur, P.S.Janta Bazar, Distt-Chapra(Saran)

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna
3. The Director General –cum- Inspector General of Police, Bihar, Patna
4. The District Magistrate Sitamarhi
5. The Superintendent of Police, Sitamarhi
6. The District Compassionate Appointment Committee, Sitamarhi through its Secretary, Sitamarhi
7. The District Establishment Deputy Collector Sitamarhi

.... Respondents

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Appearance :

For the Petitioner : Mr. Ranjeet Kumar, Adv.
Mr. Kundan Kumar, Adv.
Mr. Akash Keshav, Adv.

For the Respondents : Mr. AC to GP-26.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

6 14-12-2015 Heard Sri Ranjeet Kumar, learned counsel for the

petitioner and learned AC to GP-26.

The petitioner, claiming to be adopted son of late Mohan Sah, a Sub-Inspector of Police, who died in harness on 09.01.2006 and was actually uncle of the petitioner, has again approached this Court with a prayer to direct the District Compassionate Appointment Committee, Sitamarhi to re-consider his case for appointment on compassionate ground. The petitioner's uncle, who was in government job and Sub-Inspector



of Police, died on 09.01.2006. Thereafter, the petitioner applied for being appointed on compassionate ground, which was rejected on the ground that the petitioner was not ward of the deceased employee and he was nephew of the deceased employee. This fact was admitted by learned counsel for the petitioner regarding rejection of his earlier claim. Thereafter, the wife of the deceased employee, namely, Kanti Devi filed a writ petition vide C.W.J.C.No.4671 of 2007 for quashing of the decision of the District Compassionate Appointment Committee, whereby the claim of the present petitioner for being appointed on compassionate ground was rejected. It was jointly accepted that earlier the claim for appointment of the petitioner was rejected by the District Compassionate Appointment Committee on 01.03.2007. The writ petition was filed by aunt of the petitioner i.e. C.W.J.C.No.4671 of 2007 stood dismissed (vide Annexure-2 to the writ petition) granting liberty to avail appropriate steps. It has been claimed by the petitioner that subsequently the Judgment and Decree on compromise was prepared showing adoption of the petitioner as valid and, thereafter, the aunt of the petitioner, namely, Kanti Devi again applied for appointing the petitioner on compassionate ground in the light of Judgment and Decree of the court below in respect of adoption.



The case of the petitioner along with other persons was considered by the District Compassionate Appointment Committee in its meeting dated 25.08.2009. However, the case of the petitioner was turned down on the ground that no certificate under the Hindu Adoption and Maintenance Act, 1956 was produced. After rejection of the claim for appointment of compassionate ground, on second occasion, the petitioner again approached this Court by filing a writ petition vide C.W.J.C.No.689 of 2010, which too was dismissed as withdrawn permitting the petitioner to avail other remedy. On this occasion, the petitioner himself was the sole petitioner in C.W.J.C.No.689 of 2010. Thereafter, the petitioner made a prayer for review of the order dated 09.09.2009 by the District Compassionate Appointment Committee. However, the petitioner has been intimated vide letter no.779 dated 11.08.2010 regarding rejection of his earlier claim and also the documents, which were filed by the petitioner, were returned to him.

Learned counsel for the petitioner, by way of placing reliance on Annexures 5 and 6 to the writ petition, submits that the letter no.274 dated 18.02.2009 suggests that the case of the petitioner was recommended by the Superintendent of Police, Sitamarhi to the District Collector, Sitamarhi for consideration of



his appointment along with documents. He submits that along with the recommendation of the Superintendent of Police, Sitamarhi, the paper relating to adoption was not forwarded, whereas while the petitioner obtained information under the Right to Information Act, the petitioner was forwarded a copy of the same letter dated 18.02.2009, wherein Column no.8 was added by pen and it was shown that his certificate in respect of adoption was sent by the Superintendent of Police, Sitamarhi. It has been argued that despite the fact that the petitioner had submitted certificate and Judgment regarding adoption, same was not placed before the District Compassionate Appointment Committee and, as such, the order appears to be erroneous. Fact remains that after second time rejection of the claim, the petitioner had approached this Court by filing the writ petition, which was dismissed as withdrawn, of course, liberty was granted to pursue other remedy.

Learned State Counsel opposing the prayer of the petitioner submits that on the date of death of the employee, there was no documents to suggest that the petitioner was adopted son of the deceased employee. He submits that even the Judgment and Decree, on which reliance is being placed, was obtained much after the death of the deceased employee and that too issued on the basis of compromise, and, as such, no reliance can be placed.

The Court has examined the materials available on record. The appointment on compassionate ground is to be provided to render immediate financial assistance to the deceased employee. In this case, admittedly the death of employee has occurred in the month of January, 2006 and thereafter, twice the claim of the petitioner for being appointed on compassionate ground was rejected and twice the writ petition filed either by petitioner or his aunt was rejected by this Court. So far examination of Annexure-6 is concerned, it would be difficult for this Court to examine those things, while exercising writ jurisdiction. In this case, there is no dispute that on the date of death of the employee, there was no Judgment and Decree for adoption and, admittedly, the petitioner was nephew of the deceased employee. Being nephew as per the scheme of appointment on compassionate ground, which is an exception to Articles 14 and 16 of the Constitution of India, the petitioner does not deserve to be appointed on compassionate ground.

The writ petition stands dismissed.

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(Rakesh Kumar, J)