

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13816 of 2013

=====

Yogesh Prasad @ Yogesh Ram, Son Of Late Rajniti Ram, Resident of village -
Maharatha, P.S. - Noan, District - Kaimur (Bhabhua)

.... Petitioner

Versus

1. The Union of India, Through Secretary, Ministry of Home, New Delhi.
2. Secretary, Ministry Of Defence, Government Of India, New Delhi.
3. The Commanding Officer (C.O.) Head Quarter 14, Brte, Through 99 Service
Dak Ghar, Pune – 15.
4. The Chief Engineer (P) Vantak, 99 A.P.O., Pune – 15.
5. The Head Quarters (D.G.B.R.) Seema Sadak Bhawan, Ring Road, New Delhi.
6. The G.R.E.F. Records, Dighi Camp, Pune -15.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Pramod Kumar Singh, Adv.

For the Respondent/s : Mr. N. A. SHAMSI (A.S.G.)

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-11-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, claim has been made by the petitioner for
appointment on compassionate ground.

3. The father of the petitioner was in the service of
General Reserved Engineering Force (G.R.E.F.) as an upper
Division Clerk and he died on 01.11.2006. Later on, the petitioner



has applied for his appointment on compassionate ground. When the appointment was not made, he filed a petition being C.W.J.C. No.1066 of 2007 before this Court, which was disposed of vide order dated 16.07.2010 with a direction to the respondents to take into consideration the application of the petitioner for his compassionate appointment and pass orders, if not already passed, as expeditiously as possible, preferably within a period of six months from the date of receipt/production of a copy of the order.

4. A Modification Application was filed by the petitioner, but the same was dismissed by this Court. Thereafter, a Review application being Civil Review No.77 of 2011 was filed, but the same was also rejected. The petitioner filed a Contempt application being Miscellaneous Application No.961 of 2011 for non-compliance of the order dated 16.07.2010 and thereafter the matter was placed for considering the case of the petitioner for compassionate appointment.

5. In the counter affidavit, it has been stated that the name of the petitioner was kept in the merit list amongst other meritorious wait listed candidates. The name of the petitioner did not come up in the merit list due to low relative merit point i.e. 31 point, which is very low as compared to other candidates. The merit list of



candidates for offering compassionate appointment is being updated every month based on the fresh D.D. form received and recommended by the Board. The name of the petitioner was at serial No.261 out of 277 candidates in the merit list of December, 2012 and in the merit list of December, 2013 his position was at serial No.393 out of 409 candidates. The appointment on compassionate ground is being considered strictly in the order of merit subject to availability of vacancies meant for the purpose, in accordance with instructions being issued by the Government from time to time. The number of vacancy is very limited while the number of deserving cases for offering compassionate appointment is comparatively high. Only 5% of vacancy on Direct Recruitment of Group C/D post is available in a year for compassionate appointment as the ceiling limit has been fixed.

6. It has further been stated in the counter affidavit that as per revised Policy, the name of the petitioner will be maintained in the merit list upto 30.4.2015 for consideration of compassionate appointment in the order of merit subject to availability of vacancies.

7. In the present case, admittedly, the petitioner has not been appointed and the case of the petitioner was considered amongst the candidates opted for compassionate appointment, but

could not be appointed because of the limited vacancies available for the purpose of appointment on compassionate ground. In such view of the matter, this Court cannot give direction to the respondents to act *de hors* to the Rule framed by the Government and its Policy decision for the same.

8. In such view of the matter, this Court does not find any merit in the present writ application. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.11.2016
Transmission Date	