

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10684 of 2013

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Ankush Kumar, S/O Late Chhedi Mahto, Resident of Village-Dropur, P.S.
Ahiyapur, District - Muzaffarpur

.... Petitioner

Versus

1. The State of Bihar, through the Chairman Bihar State Electricity Board, Patna.
2. The Secretary Bihar State Power (Holding) Com. Ltd., Patna.
3. The Chief Manager-Cum-Chief Engineer, Tirhut Electric Supply Area,
Muzaffarpur, Bihar
4. The Executive Engineer (Electric), Urban Electric Supply Area, Muzaffarpur
5. The Deputy Account Director, Tirhut Area Electricity Board, Muzaffarpur

.... Respondents

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Appearance:

For the Petitioner/s : Mr. Sunil Pandey, Adv.
For the Power Holding Company : Mr. Anand Kumar Ojha, Adv.
: Mr. Ashok Kumar Karan, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 30-08-2016

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

2. In this case, the petitioner is seeking relief for grant of
compassionate appointment.

3. The father of the petitioner was employed as Daksh
Khalasi in the erstwhile Bihar State Electricity Board and he was to
be retired on 30.06.2010, but he died on 22.01.2008. After the death



of the father of the petitioner, his case for compassionate appointment was placed before the Compassionate Appointment Committee. The Compassionate Appointment Committee has rejected the claim of the petitioner vide letter No.6533 dated 17.08.2012, placing reliance on the Government letter No.937 dated 23.06.2005, where two conditions have been stipulated; first is that if the person has gone for second marriage during the lifetime of first spouse without the permission of the Government, the son and daughter from the second marriage will not be entitled for compassionate appointment, but if the person has gone for the second marriage with the permission of the Government, in that circumstance, first preference will be given to the son and daughter of first wife, the son and daughter of the second wife will be given employment subject to “No Objection” from the first wife.

4. The Compassionate Appointment Committee has given the cause for rejection of the claim of the petitioner for compassionate appointment that he is the son of second wife of the deceased-employee, but without considering the fact that whether the person had gone for the marriage during the lifetime of first wife inasmuch as whether he has obtained prior permission from the competent authority before going for the second marriage during the



lifetime of the first wife, if any. Further, on reading of Annexure-2, it appears that the father of the petitioner has entered into the second marriage after the death of his first wife. This fact was forwarded by the Electrical Executive Engineer to the Deputy Director, Tirhut Division, Muzaffarpur. So these are the facts, which have not been taken into care by the Compassionate Appointment Committee while refusing the claim of the petitioner for compassionate appointment.

5. In such view of the matter, the order dated 17.08.2012, whereby the claim of the petitioner for compassionate appointment has been rejected, is hereby set aside. The matter is remanded back to the respondent authorities for fresh consideration. The respondent-authorities are directed to examine the case of the petitioner for compassionate appointment and take final decision within a period of two months from the date of receipt/production of a copy of this order. If it is found that the petitioner is entitled to the benefit, he must be given the benefit of compassionate appointment. If the authority would not find fit case for granting compassionate appointment, must assign the reason after giving due hearing to the petitioner.

6. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
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