

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13375 of 2015

Sulo Nadaf, Son of Late Habib Nadaf, Resident of village and P.O. Singhia, District-
Samastipur

.... Petitioner/s

Versus

1. The Union of India, through the D.C. cum Secretary, Department of Posts, Dak Bhawan, New Delhi
2. The Chief Postmaster General, Bihar Circle, Patna
3. The Assistant Director (Staff & Recruitment), Office of the Chief Postmaster General, Bihar Circle, Patna
4. The Superintendent of Post Offices, Samastipur Division, Samastipur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Sudhir Kumar Tiwary

For the Respondent/s : Mr. Awadhesh Kumar Pandey, SCGC

Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 13-05-2016

The challenge in the present writ petition is to an order dated 20th January, 2014 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 579 of 2012, whereby the claim of the petitioner for appointment on compassionate ground was not interfered with.

The father of the petitioner, late Habib Nadaf, died in



harness while working as Gramin Dak Sewak on 30th January, 2005 leaving behind his widow, three sons and one married daughter. The petitioner having Class VIII qualification applied for appointment on compassionate ground but the same was rejected on 18.04.2012 on the ground that the petitioner earned only 43 points, whereas as per the policy, appointment on compassionate ground will be given to a person who will earn 50 points or above.

The Tribunal found that the petitioner had approached the Tribunal after seven years. Thus, it was found that there is no extreme financial hardship which the petitioner is said to have faced on account of death of his father in 2005.

We do not find any error in the order passed by the Tribunal, whereby the claim of the petitioner on compassionate ground has been considered as per the policy prevalent at the time of consideration. The claim of the petitioner that his case for appointment on compassionate ground is to be considered as per the policy at the time of death of his father is not tenable for the reason that compassionate appointment is a concession and not a source of regular appointment; and the policy prevalent at the time of consideration alone will apply. In *SBI v. Anju Jain, (2008) 8 SCC 475*, the Supreme Court held that when any appointment is to be made in Government or semi-government or in public office, cases of all

eligible candidates must be considered alike as is the mandate of Article 14. The Court held as follows:-

“31. We are of the view that both the courts were wrong in granting relief to the writ petitioner. Appointment on compassionate ground is never considered a *right* of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per settled law, when any appointment is to be made in Government or semi-government or in public office, cases of all eligible candidates must be considered alike. That is the mandate of Article 14. *Normally*, therefore, the State or its instrumentality making any appointment to public office, cannot ignore such mandate. At the same time, however, in certain circumstances, appointment on compassionate ground of dependants of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread earner. It is thus an *exception* to the general rule of equality and not another independent and parallel source of employment.”

In that view of the matter, we do not find any error in the order of the learned Tribunal. The writ petition is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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