

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15638 of 2013

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Raju Kumar @ Raju Vishwakarma Son of Late Ramdayal Mistry, Retired
Unskilled Labour, resident of village + Post + Police Station Koilwar, District Ara.

.... Petitioner/s

Versus

1. The State Electricity Board through Secretary Vidyut Bhawan, Patna
2. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna
3. The Managing Director-cum-Chief Engineer, Main Thermal Power Station,
Muzaffarpur
4. Deputy Director, Personal Thermal Power Station Kanti, Muzaffarpur
5. Executive Engineer, M.R.T. Arrah
6. The Assistant Electrical Engineer, Town Electric Supply Sub-Division No. 1,
Arrah.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh

For the Respondent/s : M/s Amit Pandey and Nikesh Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-12-2016

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

In this case, the petitioner is seeking appointment of
compassionate ground, as his father, namely, late Ramdayal Mistry,
had died during service period. Ramdayal Mistry had three wives. The
name of his first wife is Sakuntala Devi, the name of second wife is
Budha Devi and the name of third wife is Gayatri Devi. As his 1st and
2nd wife, i.e. Sakuntala Devi and Budha Devi died prematurely,
Ramdayal Mistry entered into the third marriage with Gayatri Devi.
Rajendra Vishwakarma is the son of first wife and the present



petitioner is the son of third wife, Gayatri Devi. Earlier there was litigation, as Gayatri Devi wanted to be appointed on compassionate ground which was objected by Rajendra Vishwakarma, who himself was claiming to be appointed on compassionate ground.

The Board has asked both of them to give the No Objection Certificate from either of the persons in favour of other and that should be on affidavit sworn before the 1st class Executive Magistrate, but instead of furnishing the No Objection Certificate before the Executive Magistrate, both of them have produced the affidavit sworn before the Public Notary which cannot be accepted by the Court and one thing is very important in this case, the petitioner has attached an affidavit which was sworn before the Public Notary there the signature of Rajendra Vishwakarma is available but in rest of the letters and affidavits, Rajendra Vishwakarma was putting his left thumb impression which creates doubt about the genuineness of the document which has been produced before this Court to show that Rajendra Vishwakarma had tendered his No Objection Certificate in favour of the mother of the petitioner, who died on account of the Cancer disease. Rajendra Vishwakarma has also died so the petitioner is claiming to be the sole heir and successor of Ramdayal Mistry, claiming appointment on compassionate ground. In the affidavit portion, he has given his age as 20 years in the year 2013, but on



calculation, it comes that he was only seven years old when his father had died in the year 2000 and he has not attained majority within five years which is maximum time limit for consideration of compassionate appointment. The compassionate appointment cannot be a source of appointment, but it is given by way of compassion when a family member is in dire need of money and is in penury, at that time requires that there should be some financial help to the family to mitigate the financial problem that has occasioned on account of death of bread earner. The father of the petitioner had died much earlier i.e. before 12 years, it will not be a prudent for this Court to give direction for the appointment of compassionate ground, as the petitioner was quite minor during that period and it is not the intention and scheme for the compassionate appointment, whenever the person attained majority, will seek the appointment on compassionate ground. Hence, this Court does not find any merit in the present petition, and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
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