

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12092 of 2015

1. Maroon Khatoon, wife of Late Asgar Ali, resident of village- Dannagar, Station Road, P.S.- Town, District- Khagaria.

2. Md. Guddu, son of Late Asgar Ali, resident of village- Dannagar, Station Road, P.S.- Town, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.

2. Chief Engineer (Mechanical), Public Health Engineering Department, Government of Bihar, Patna.

3. Superintending Engineer, Public Health Engineering Circle, Saharsa.

4. Executive Engineer, Public Health Engineering Division, Khagaria.

5. The District Magistrate cum Chairman, District Compassionate Appointment Committee, Khagaria.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate
Mr. Jai Kishor Poddar

For the Respondent/s : Mr. A.K.CHAUDHARY, AAG 13
Mr. Anshuman Singh, A.C. to AAG 13.

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 17-05-2016

There are two petitioners before this Court, one is the wife and the other is son. They have jointly moved the High Court for a direction upon the respondent State authorities to appoint petitioner no. 2 Md. Guddu on compassionate ground since the husband of petitioner no. 1 Asghar Ali died in harness while working as a Nalkoop Khalasi in P.H.E.D. Department, Government of Bihar, Patna.

2. There cannot be any dispute that the husband of petitioner no. 1 was working as a work charge employee and his services never came to be regularised. However, petitioner no. 1 had earlier moved the High Court for payment of pension etc. in a writ

application which was decided in her favour with a direction upon the State that looking at 19 years of services rendered by the husband of petitioner no. 1 and for the reasons indicated in the order contained in annexure-2 dated 05.05.2010 she would be entitled to pension and certain salary.

3. This judgment of the learned Single Judge was upheld by a Division Bench and S.L.P of the State has also been rejected by the Hon'ble Supreme Court. Therefore, the issue with regard to pension must rest.

4. Now the issue is whether on the basis of the judgment rendered earlier giving benefits of pension to petitioner no. 1, a direction can be issued treating the husband of petitioner no. 1 as a government servant entitling the legal heirs of the benefit of compassionate appointment in terms of the policy.

5. The basic objective behind grant of compassionate appointment is to provide immediate succour to the family due to the death of the bread earner and mitigate the hardship which the family faced at that point of crisis situation. The death of husband of petitioner no. 1 occurred on 23.11.1999. 17 years have gone past since the so called bread earner passed away. The distress which has been talked about by the learned Senior Counsel for the petitioner which the family is facing even now, is the situation with majority of the citizens of this country who do not have the advantage of having a bread earner as a government servant. In fact the petitioner is

fortunate to have some kind of sustenance by virtue of judicial direction for payment which this Court is aware that thousands and thousands of such employees who have worked under work charge capacity or their family, never got the benefit or advantage of being paid pension/family pension by virtue of their status.

6. Since compassionate appointment is not a fundamental right of any claimant and the objective has been lost in the last 17 years since when the bread earner passed away, the submission of the learned counsel that the cause of action has arisen only after dismissal of the S.L.P. and confirmation of order of payment of pension to the petitioner, makes out a case for direction, does not impress this Court for the reason that the compassionate appointment is not a methodology to provide appointment to the otherwise unemployable people in this country. The Court, therefore, will not pass any direction upon the respondent State to grant benefit of compassionate appointment after 17 years of death of the bread earner.

7. The stand of the State in the counter affidavit is in accordance with the settled principles of law.

8. This writ application is, thus, dismissed.

(Ajay Kumar Tripathi, J)

Amin/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

