

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.694 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 8720 of 2012

Along with

Interlocutory Application No.2922 of 2015

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Kundan Kumar, son of late Dinanath Singh, resident of village Thahra (West)
Shiva Singh ka Tola, Post Office Makair, P.S. Makair, District Saran (Chapra).

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Human Resources Development Department, Vikas Bhawan,
New Secretariat, Building, Patna.
3. The District Magistrate, Saran, Chapra.
4. Deputy Collector, Establishment, Saran.
5. The Block Development Officer, Makair, Saran.

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Lalan Kumar Singh, Advocate

For the Respondent/s : Mr. Shiv Kumar, A.C. to G.A.-7

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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: 15-07-2016

Re.: Interlocutory Application No.2922 of 2015

The application is for condonation of delay of 228 days in
filing of the present Letters Patent Appeal.

2. For the reasons mentioned in the application, we find that sufficient cause is made out for condonation of delay. Consequently, we condone the delay in filing of the present Letters Patent Appeal.

3. Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.694 of 2015

The present Letters Patent Appeal is directed against an order passed by the learned Single Bench of this Court on 7th of May, 2014 whereby, the claim of the appellant for appointment on compassionate ground was not accepted.

2. Sri Dina Nath Singh, the father of the appellant, died on 26th of February, 2009. As per the appellant, he has two other sons and two daughters, all of them married. Therefore, the appellant claimed appointment on compassionate grounds.

3. It is not disputed that two brothers of the appellant are in Government service. The appellant, the third son, claims appointment on compassionate ground which prayer has not found favour from the learned Single Judge. The learned Single Judge has relied upon two judgments of the Division Bench of this Court in the case of Vishal Kumar Versus the State of Bihar & Ors., 2004(2) PLJR 453 and Santosh Kumar Versus The State of Bihar & Ors., 2013(1)

PLJR 454. On the basis of the aforesaid judgments, the writ application was dismissed.

4. The counsel for the appellant relies upon a judgment of the learned Single Judge in the case of Bharat Prasad Versus The State of Bihar & Ors., 1998(1) PLJR 125 to contend that even if one of the sons of the deceased is in Government service that will not be a disqualification for the other son for appointment on compassionate ground.

5. The judgment referred to by the learned counsel for the appellant is a Single Bench Judgment, whereas there are two other Division Bench judgments. We find that view taken by the learned Single Bench in Bharat Prasad's case (supra) has been considered in Vishal Kumar's case (supra) and distinguished. In fact, we find that the said judgment does not lay down the correct law as the purpose of appointment is to provide assistance to the family to overcome the financial distress. It is not a source of appointment. Therefore, when two sons of a deceased government servant are in government job, there cannot be an acute financial distress to the family, which may require consideration of third son for appointment on compassionate ground.

6. We do not find that such judgment can be relied upon in the light of other two Division Bench judgments referred to by

the learned Single Bench. It has been rightly found that appointment on compassionate ground is not the hereditary right which has been created under the scheme of compassionate appointment.

7. Since the family of the appellant is well protected having two of his brothers in Government service, we do not find any merit in the claim of the appellant for appointment on compassionate ground.

8. In view of the above, we do not find any merit in the present appeal. The same is, therefore, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sunil/-

AFR/NAFR	
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