

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8475 of 2013

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Manoj Kumar Paul S/O Late Bhuneshwar Pal R/O Village- Mednipur, P.O.- Mednipur, P.S.- Mednipur, District- Katihar, At Present R/O Village- Pakri Deyal, P.O.-Pakri Deyal, P.S.- Pakri Deyal, District- East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar
2. General Administrative Department, Govt. Of Bihar, Patna
3. The Principal Secretary Health Department, Govt. Of Bihar, Patna
4. The District Magistrate, Motihari, East Champaran
5. The Civil Surgeon Cum Chief Medical Officer Null Motihari, East Champaran
6. Health Officer Primary Health Centre, Pakri Deyal, District- East Champaran
7. Yuvraj Kumar Paul S/O Late Bhuneshwar Pal R/O Village-Mednipur, P.O.- Mednipur, P.S.- Mednipur, District-Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar No.III, Adv.
For the State : Mr. Upendra Pratap Singh, A.C. to S.C.25
For the Respondent No.7 : Mr. Gyanand Roy, adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 05-07-2016

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

2. In this case, the petitioner is seeking relief of mandamus from this Court to give direction to the respondents to appoint him on compassionate ground.

3. The short facts of this case are that the mother of the petitioner- Arti Paul was working as A.N.M. and died on 11.10.2011

leaving behind her two sons namely Yuvraj Kumar Paul and the present petitioner.

4. The claim of compassionate appointment is based upon the nomination which was given in favour of the present petitioner, accordingly, the petitioner received the entire amount which the family was entitled and Yuvraj Kumar Paul failed to succeed in C.W.J.C. No.5810 of 2014.

5. Learned counsel for the respondent No.7 has submitted that this Court while disposing the C.W.J.C. No.5810 of 2015, filed by the respondent No.7, has relegated the matter to the Civil Court and as such, in such situation, in order to avoid complication, this Court should also relegate the present matter to the Civil Court.

6. Having heard learned counsel appearing for the parties, as the present matter relates to compassionate appointment it requires urgent consideration otherwise the purpose and object of compassionate appointment, in course of time will loss its efficacy, as it has been made to cross the financial crises, once the financial crisis is over and the family becomes stable, the question of granting compassionate appointment does not arise.

7. The Hon'ble Supreme Court in the case of **Umesh**

Kumar Nagpal vs State Of Haryana reported in 1994(4) S.C.C.

page 138 held that the whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased.

8. Even a person who is a nominee is nothing but a trustee of the property of the deceased and gets the share in terms of Succession Act, which is apparently clear from the judgment of the Hon'ble Supreme Court in the case of *Shipra Sengupta vs Mridul Sengupta & Ors.* reported in *2009(10) SCC, 680*, in which reliance has been placed to *(1984)1 SCC 424 (Smt. Sarbati Devi and Another vs. Smt. Usha Devi)* where the Hon'ble Supreme Court eloquently approved the aforesaid view.

9. In such view of the matter, the petitioner cannot succeed for getting an order from this court, giving a direction for appointing him on compassionate ground.

10. In such circumstance, let the petitioner approach the competent authority by filing a proper application. The competent authority after giving notice to Yuvraj Kumar Paul and considering the materials on record, decide the case of the petitioner, whosever is

found entitled, will be given the benefit of compassionate appointment.

11. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	16/7/2016
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