

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1323 of 2011

=====

Satish Kumar Mehta S/O Late Saryug Mehta R/O Village - Bawanganj,
P.S. - Binjee, Anchal Kochadham, Distt. - Katihar

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate (D.M.), District Kishanganj
3. The Sub Divisional Magistrate (S.D.M.), District Kishanganj
4. The Treasury Officer, District - Kishanganj
5. The Circle Officer, (C.O), Anchal Kochadhaman, District – Kishanganj.
6. The Block Development Officer (B.D.O.) Anchal Kochadhaman, Distt. – Kishanganj.

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Satish Kumar

For the Respondent/s : Mr. Ritesh Kumar, SC - 33

=====

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 02-02-2016 Heard Sri Satish Kumar, learned counsel for the
petitioner and Sri Ritesh Kumar, learned Standing Counsel – 33.

The petitioner, claiming to be full brother of deceased employee who died unmarried while in service, has approached this Court invoking its writ jurisdiction to issue writ of mandamus directing the respondents to appoint him on compassionate ground. As per the writ petition, the brother of the petitioner died on 07-04-2009, while serving as Revenue Clerk under Circle Kochadhaman, District Kishanganj. The petitioner, on the basis of instruction issued by the Government of Bihar entitling brother of an unmarried deceased employee to be appointed on

compassionate ground, has approached for being appointed on compassionate ground. It has been pleaded that till date the petitioner has not been provided with the employment.

In this case, counter affidavit has been filed on behalf of respondent no. 2 to 6 and some relevant facts have been brought on record.

Sri Ritesh Kumar, learned Standing Counsel – 33 by way of referring to counter affidavit submits that earlier a writ petition was filed by one Smt. Nishu Devi claiming to be widow of the deceased employee (brother of the petitioner) for a direction for appointment on compassionate ground, vide C.W.J.C. No. 414 of 2010, which was disposed of with certain observations. Thereafter, the matter was examined by the District Magistrate and finally, she was appointed on compassionate ground, vide **Annexure – C** to the counter affidavit. The said Smt. Nishu Devi was appointed on compassionate ground. It was pointed out that against the order passed in C.W.J.C. No. 414 of 2010, the mother of the petitioner had filed an appeal, vide L.P.A. No. 17 of 2012, which stood dismissed on 04-01-2012. Subsequently, one another writ petition was filed by mother of the petitioner raising the dispute that Smt. Nishu Devi was not wife of deceased employee. The said writ petition was heard and disposed of by a bench of this

Court by order dated 13-02-2012 passed in C.W.J.C. No. 2858 of 2012 with following observations:-

“Considering the scope of the jurisdiction invoked by the writ petitioner and the relevant pleadings on record, in my view, it will not be proper for this Court to adjudicate on the pleadings and record a finding of fact. I would, therefore, leave the matter to be agitated before and adjudicated upon by a competent Court of civil jurisdiction after weighing evidence, both oral and documentary, to be produced by the parties thereat.”

On perusal of the aforesaid order, it is evident hat dispute, which has been raised in the present writ petition, was almost similar to the dispute raised in C.W.J.C. No. 2858 of 2012. Meaning thereby that the dispute, which is being raised by the petitioner, may not be adjudicated by this Court, while exercising writ jurisdiction. The earlier order itself indicates that such dispute can well be adjudicated by the competent court of civil jurisdiction.

Accordingly, the Court is of the opinion that the present writ petition requires same result and as such, the writ petition stands dismissed.

(Rakesh Kumar, J.)

Anay

U			
---	--	--	--