

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24301 of 2013

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1. Rajeev Ranjan Son Of Late Umesh Chandra Prasad Resident Of St. Peters School B.N.R. Road, Guljarbag, Patna - 800007

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Planning And Development Department Government Of Bihar, Patna
2. The Chairman, Central Compassionate Committee, Govt. Of Bihar, Patna
3. The Senior Joint Director Statics And Evaluation Directorate, Government Of Bihar, Patna
4. The Joint Director (Administration) Statics And Evaluation Directorate, Government Of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh Sr. Advocate.
Mr. Mukesh Kumar Lal, Advocate.
For the Respondent/s : Mr. Ashish Kumar Lal, AC GA XII

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-03-2016

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

2. In the present writ petition, petitioner is challenging the order dated 27.4.2011 passed by the Principal Secretary, Planning and Development Department, Government of Bihar, Patna by which his claim for appointment on compassionate ground has been rejected on the ground that elder brother of the petitioner was holding a high post in ICICI Bank but plea has been taken that he was not looking after his mother and family members.



3. From the record it appears that father of the petitioner was an employee of State of Bihar, died in harness on 25.6.2008 while discharging the duty of Junior Statistic Assistant. Thereafter an application was filed by the petitioner for compassionate appointment on 2.9.2008 claiming that he is not looking after his mother and there is no bread earner to look after his family members. The matter was placed before the Compassionate Appointment Committee. The case of the petitioner along with others was considered and recorded a finding that his brother is already Manager in ICICI Bank and earning sufficient salary to look after the family of demised Government servant. On first instance petitioner has taken a plea that though his brother was employed in Bank but was not looking after the family and on later stage he has taken a plea that his brother is not in service either in Government job or any Banking industry or semi Government job or he is not engaged in his own business and claimed that petitioner should be appointed on compassionate ground.

4. In contra, the State has taken a plea that when the matter was being considered by the Compassionate Appointment Committee undisputed fact came to the notice that elder brother was already employed and was earning sufficiently amount



capable to look after his family, placing reliance on the judgment in the case of Vishal Kumar V. The State of Bihar & others, reported in 2004(2) PLJR 453 where the Court has said that compassionate appointment cannot be offered where one of the family member is in Government job and even in a case where there is rivalry in the family and the person who is employed not looking after the family. The basic idea of this judgment that compassionate appointment cannot be source of appointment but is meant to provide financial assistance to the family which has suffered a loss on account of death of bread winner. But in the present case as per affidavit that has been filed by the petitioner that his brother is no longer in service and completely he is unemployed. In such view of the matter, this judgment does not deal with the situation and question remains whether family has sufficient financial means to tide over financial difficulty. Of course on the date of consideration of this Case his brother was already employed and the decision that has been taken by Compassionate Appointment Committee cannot be said to be bad in law.

5. Learned counsel for the petitioner has placed reliance on the order passed by this Court in C.W.J.C. No.15600 of 2009 (Rajeev Kumar Manjhi v. The State of Bihar & ors) where this

Court has also considered and held that exercise of power is to see that the family have other sources of survival or is not left to destitute.

6. In this back ground this Court directs the respondents to place the case of the petitioner again before the Compassionate Appointment Committee where the Committee will enquire into the matter and asked his brother for present engagement in either mode such as, whether he is employed either in Government service, private service or in his own business or profession. If the Committee would arrive to a finding that family is not in a position to carry and is penury the Committee will take a decision in terms of guideline issued by the State of Bihar.

7. For convenience petitioner is directed to file a fresh application/representation along with the order of this Court and the Committee will decide the case of the petitioner within a period of four months from the date of filing of the application.

8. With the aforesaid observation this writ petition is disposed of.

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(Shivaji Pandey, J)