

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.22613 of 2013**

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1. Binay Shankar Verma Son Of Late Subhash Kumar Verma Resident Of Opposite Shalimar Cold Storage, Nawada Path, By Pass Road, Anisabad, P.S. Anisabad, Patna - 2

.... .... Petitioner/s

Versus

1. The State Of Bihar
2. The Chief Secretary, Government Of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Personnel And Administrative Reforms Department ( General Administration Department ), Government Of Bihar, New Secretariat, Patna
4. The Engineer - In - Chief, Road Construction Department, Government Of Bihar, Vishwasaraia Bhawan, Patna
5. The Chief Engineer, Road Construction Department, Vishwasaraiya Bhawan, Patna
6. The Superintending Engineer, Head Quarter, Nirupan Anchal ( Mukhyalay Nirupam Anchal ), Road Construction Department, Bihar, Patna

.... .... Respondent/s

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**Appearance:**

For the Petitioner/s : Mr. Kumod Kumar Shrivastaw

For the Respondent/s : Mr. Amresh Kumar Sinha, A.C. to G.A.-9

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**  
**Date: 02-05-2016**

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

In this case, the petitioner is the brother of Uday Shankar Verma, who died in harness on 29.08.2001 leaving behind his three years' female child and on that basis the petitioner claims that he should be appointed on compassionate ground as Uday Shankar Verma himself was appointed on compassionate ground on the death of his father and during his lifetime his wife also died.

Learned counsel for the petitioner submits that as the bread-earner has died the family is in penury, in such situation it is very difficult for him to carry the family load and as such he should be appointed so that he can look after his mother as well as three years' female child.

Whereas learned counsel for the State submits that the petitioner cannot claim appointment on compassionate ground in view of the fact that scheme does not provide appointment of the brother of the deceased-employee. In the scheme only four categories of persons have been given liberty for being appointed on compassionate ground which are; wife, son, unmarried daughter of the deceased-employee and wife of the son of the deceased-employee. Brother of the deceased-employee does come under the category of persons/dependent for being appointed on compassionate ground.

Having considered the rival contentions of the parties, the compassionate appointment is not a normal Rule and does not create a vested right. A person can be appointed only in terms of the scheme framed by the Government. Under the Government Scheme the brother of the deceased-employee has not been shown to be the dependent on the deceased-employee. In such situation, request of the petitioner cannot be accepted. Accordingly this writ petition is

dismissed.

At this stage, learned counsel for the petitioner submits that the dependent girl would be getting major in few months. This Court is not giving any opinion on its merit. If the dependent girl applies for compassionate appointment, the authority concerned will decide the matter in accordance with law

**(Shivaji Pandey, J)**

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