

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2799 of 2017

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Gopal Kumar S/o late Upendra Mandal Resident of Village- Shahpur, P.O. Pacham,
P.S. chanan, District- Lakhisarai, Bihar.

.... Petitioner

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
3. The District and Session Judge, Munger, District- Munger, Bihar
4. The District and Session Judge, Lakhisarai, District- Lakhisarai, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Respondent/s : Mr. Apurva Kumar, AC to GA-4

For respondents no. 3 & 4: Mr. Bindhyachal Singh, Adv.
Ms. Smriti Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 11-12-2017

Heard Mr. Ajay Kumar Singh, learned counsel for the petitioner, Mr. Atul Kumar, AC to GA-4, for the State and Ms. Smriti Singh, AC to Mr. Bindhyachal Singh, for respondents no. 3 and 4.

The petitioner prays for issuance of a writ in the nature of mandamus commanding the respondent authorities which includes the District and Sessions Judge, Lakhisarai as the Chairman of the Compassionate Committee, to appoint the petitioner on compassionate ground on any Class IV post within the Judgeship of Lakhisarai.

A counter affidavit is filed and while it has been admitted by the respondents that the case of the petitioner has been



recommended for appointment by the District Court vide letter no. 596/2016 dated 27.7.2016 as stated in paragraph 6 of the counter affidavit, in paragraph 7 of the counter affidavit it is admitted that the High Court has approved the appointment subject to availability of vacancy. It is next stated that under circular dated 7.8.2016 of the High Court only 3% of the sanctioned strength is ear-marked for compassionate appointment and which though has been enhanced to 5%, yet the case of the petitioner cannot be considered because there are already five appointments made on Class IV post on compassionate ground as against the cadre strength. It is on this ground that the claim of the petitioner has been rejected.

Mr. Singh, learned counsel appearing for the petitioner, has relied upon the statement made in paragraph 9 of the counter affidavit to submit that as per admission of the respondents no.4 there has been no appointment made on compassionate ground since after establishment of the Judgeship at Lakhisarai in the year 2014 and thus, any appointment made prior to the said date cannot prejudice the petitioner.

I have heard learned counsel for the parties and have perused the records.

It is not in dispute that the Judgeship of Lakhisarai earlier formed part of Munger Judgeship and was bifurcated for



establishment of an independent Judgeship in Lakhisarai in 2014. It is following the establishment of the Judgeship at Lakhisarai that in the process of cadre allocation five appointments made on compassionate ground against Class IV post in the then Munger Judgeship, was allotted to the Judgeship of Lakhisarai. Admittedly these were appointments made in the unified cadre of the Judgeship and not against the vacancies arising in the Judgeship of Lakhisarai which got established only in the year 2014. Under the advisory of the High Court initially 3% post of the cadre strength in Class IV post was earmarked for compassionate appointment and which has been subsequently enhanced to 5% on 10.1.2017 vide Annexure 4. The District Judge, Lakhisarai has very fairly accepted in paragraph 9 of the counter affidavit that since after establishment of the Judgeship at Lakhisarai in the year 2014 no appointment has been made on compassionate ground against any Class IV post.

It is stated at the Bar by Mr. Singh, learned counsel for the petitioner, that a process for appointment of Class IV employees was initiated in the year 2016 against 36 Class IV post, the panel of which is present at Annexure 5, and according to the strength of vacancy about 1.8 posts i.e. about 2 posts would be available for compassionate appointees to include the petitioner.

Though the plea has been resisted by the learned counsel



appearing for the respondents, but, in my opinion, the plea is well taken and deserves to be accepted. Whatever be the appointments made on compassionate ground it was made on the vacancies arising in the then unified Judgeship of Munger and not in the Judgeship of Lakhisarai. Even if the district of Lakhisarai was under the judicial control of the Judgeship of Munger and was being judicially administered therefrom, yet the unified cadre was for the Judgeship of Munger. The judgeship of Lakhisarai was established in the year 2014 and whereafter in the process of allocation of strength that five compassionate appointees against Class IV post were allotted to the Judgeship of Lakhisarai which in no manner would take away the rights of the legal heirs of a deceased court employee of Lakhisarai Judgeship whose claim had to be considered as against the vacancies arising in the newly created Judgeship of Lakhisarai in the year 2014 and since Annexure 5 is the process initiated by the Judgeship of Lakhisarai after its creation for filling up the Class IV post, not less than 1.8 i.e. two post out of 36 vacancies had to be earmarked for compassionate appointee and the case of the petitioner thus deserves consideration.

For the reasons discussed, the matter is remitted to the District Judge, Lakhisarai for consideration of the claim of the petitioner for compassionate appointment and for its disposal in



accordance with law preferably within a period of six weeks from the date of receipt/ production of a copy of this order bearing in mind the observations made by this Court hereinabove.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

