

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15 of 2017

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Anita Devi Daughter of Ram Swarup Manjhi, W/o Nand Lal Manjhi resident of
Village : Hasanganj, P.S. : Naya Ram Nagar (Safiabad), District : Munger.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Urban Development Department, New Secretariat, Patna.
2. The District Magistrate, Munger.
3. The Municipal Commissioner, Munger Municipal Corporation, Munger.
4. The Chairman, Munger Municipal Corporation, Munger.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Karuna Nath Sahay, Adv.
Mr. Anjan Singh, Adv.

For Respondents no. 1 & 2: Mr. Kinkar Kumar, SC9
Mr. Rakesh Kumar Sharma, AC to SC9

For Respondents no. 3 & 4: Mr. Ambika Bhagat, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-05-2017

Heard Mr. Anjan Singh, learned counsel for the petitioner,
Mr. Kinkar Kumar, learned SC-9, for the State and Mr. Ambika
Bhagat, learned counsel appearing for the Municipal Corporation,
Munger and its authorities.

With the consent of the parties the writ petition has been
heard with a view to final disposal at the stage of admission itself.

The petitioner prays for an appropriate direction to the
Municipal Commissioner, Munger Municipal Corporation, Munger to
provide her with appointment on compassionate ground.



The facts of the case briefly stated leading to the present writ petition is that the father of the petitioner late Ram Swarup Manjhi was an employee of the Municipal Corporation, Munger holding the post of a Cleaner and died in harness on 30.5.2012. The wife of late Ram Swarup Manjhi predeceased him. It is the case of the petitioner that although she was married to one Nand Lal Manjhi but facing harassment physically and otherwise at the hands of the husband that she decided to separate by mutual consent and which is supported by the agreement present at Annexure 2 which is duly signed by the parties on 12.4.2012 i.e. much before the death of her father. It is the case of the petitioner that alongside they also moved the Civil Court, Munger by filing a divorce case giving rise to Matrimonial Case No. 176/2014 and vide order passed on 6.5.2014 present at Annexure 3 the matrimonial case was admitted for hearing. The final order passed in the matrimonial case is enclosed at Annexure 8 at running page-31 and when the joint petition for divorce by mutual consent was allowed by the Principal Judge, Munger vide judgment and order passed on 3.12.2014 present at running page-32. The petitioner in the circumstances where she had to return to her father's house and dependent on him, filed an application for compassionate appointment at Annexure 8 on 29.1.2015 i.e. within the period of five years as prescribed under the guidelines of the State



Government and since it was not being acted upon that she is before this Court.

While a counter affidavit is filed on behalf of the Corporation enclosing certain letters addressed to the Department of Urban Development and Housing Department seeking guidelines on the claim advanced by the petitioner, a counter affidavit was filed on behalf of Urban Development and Housing Department to the State Government advising the Municipal Commissioner to act according to the circular of the General Administration Department bearing Memo No. 13293 dated 5.10.1991 which was held applicable to the Municipality as well. The advice of the Urban Development and Housing Department can be found in their letter dated 3.7.2007 addressed to all the Municipality present at Annexure R-1/A to the counter affidavit of the State.

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

The objection raised by the Corporation in their counter affidavit at para-17 is that the petitioner having got married in the year 2004, the divorce by mutual consent is only a ground prepared for seeking a compassionate appointment. While objecting to the claim of the petitioner as such, the Commissioner has enclosed letters dated 21.3.2015 and 3.7.2015 at Annexures 'B' and 'C' to the counter



affidavit to submit that the guidelines from the State Government were awaited. Mr. Kinkar Kumar, learned State Counsel, in reference to Annexure R-1/A to the counter affidavit of the State has submitted that necessary advice has already been given to the Municipality, to act according to the circular of the General Administration Department dated 5.10.1991.

Responding to the objections it is the submission of Mr. Anjan Singh, learned counsel for the petitioner, that the objection whatsoever raised by the Corporation is misplaced, inasmuch as under the General Administration Department guidelines dated 5.5.2010 a daughter of the Government servant, who has been divorced or has been deserted at the hands of her husband, has been held entitled for appointment on compassionate ground. A copy of such circular is present at Annexure 13. It is thus the submission of Mr. Singh that in view of the legal position reflecting from the circular dated 5.5.2010 present at Annexure 13 read alongside the divorce decree enclosed with Annexure 8, no objection can be raised by the respondent Corporation to deny a compassionate appointment to the petitioner.

In my opinion, the objection raised by the respondent Corporation to deny compassionate appointment to the petitioner is rather insensitive, inasmuch as even when the petitioner faces harassment at the hands of her husband and has to fend for herself as



well as her children and even when the petitioner had to return to her father's house much prior to his death as confirmed from the agreement dated 12.4.2012 at Annexure 2 and even when the protective hand of the father of the petitioner was for a short while leaving her to fend for herself and her children yet the Commissioner has been highly insensitive in terming her divorce as a ploy for seeking compassionate appointment. It is rather unfortunate that the Officers holding high public offices have to resort to such insensitivity to oppose a claim.

When the petitioner was forced to leave her matrimonial house and return to her father's house on 12.4.2012, little did she know that she would also be deprived of her father's protection who died within a months thereafter.

It is rather peculiar that while on one hand, it is taking note of the issues of such kind that the State Government in its General Administration Department, have come up with the guidelines present at Annexure 13 to allow such harassed women, the benefit of compassionate appointment and even though the General Administration Department has gone a step ahead to also extend this benefit of compassionate appointment to even married daughters vide their circular dated 10.12.2014 enclosed at Annexure 14 to the rejoinder, a mere suspicion on the conduct of the petitioner, is the root



of objection so raised by the Municipal Commissioner.

In the circumstances discussed, the Municipal Commissioner, Munger Municipal Corporation, Munger (respondent no.3) is directed to take necessary steps for providing compassionate appointment to the petitioner within a maximum period of six weeks from the date of receipt/ production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	31.05.2017
Transmission Date	NA

