

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7686 of 2016

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Pinki Kumari wife of Late Sanoj Kumar, resident of village- Bhagwanpur, P.S.-
Nalanda, District- Nalanda

.... Petitioner

Versus

1. The General Manager, Punjab National Bank Personnel Admni. Division H.O. Bhikaji Cama Place, New Delhi
2. Divisional Chief Manager, Punjab National Bank, Human Resources Development Department, Division Office, Biharsharif, Ramchandra Pur (Near Machhali Bazar), Biharsharif, District- Nalanda Pin- 803101
3. The Chief Manager, Punjab National Bank Machhali Mark Ramchandrapur Biharsharif, District- Nalanda
4. The Branch Manager of Punjab National Bank Branch Giriyak P.S. Giriyak, Distt. Nalanda

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rabindra Prasad Singh, Adv.

For the Respondent/s : Mr. Raj Nandan Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-12-2017

Heard Mr. Rabindra Prasad Singh, learned counsel for the petitioner and Mr. Raj Nandan Prasad, learned counsel appearing for the respondent Bank.

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 authorities of the respondent Bank to appoint her on compassionate ground and an application to such effect is on record at Annexure 4 to the writ petition.

The facts leading to the writ petition briefly stated is that the husband of the petitioner was employed as a Part Time Sweeper on



16.1.2012 vide Annexure 1 and he died in harness on 17.2.2015 as confirmed from his death certificate at Annexure 3. It is thereafter that the petitioner applied for appointment on compassionate ground and since no steps has been taken that she is before this Court.

A counter affidavit is filed on behalf of the Bank and Mr. Raj Nandan Prasad, learned counsel for the Bank, in reference to Annexure 'C', which is an order dated 7.1.2016 of the Chief Manager addressed to the petitioner, submits that since the qualification for appointment as a Part Time Sweeper is a Xth fail candidate and since the petitioner has passed her Matriculation Examination, she is holding a higher qualification, which is a disqualification for appointment against the said post.

This Court while recording the submission so advanced by Mr. Prasad, in its order dated 13.11.2017, granted time to Mr. Prasad to seek instruction as to whether there is any circular of the Bank which disqualifies an applicant from such appointment simply because he/ she holds a higher qualification. Despite adjournment, no such circular has been placed on record.

In the circumstances discussed and even if the qualification for appointment as a Part Time Sweeper is a Xth fail applicant, a higher qualification of any applicant cannot be an impediment for his/ her appointment to the said post, in absence of a circular disqualifying them as such.



Another aspect of the matter is that if the petitioner holds a higher qualification for appointment in a higher post, the discretion lies with the bank to consider her case for such appointment and I shall leave this discretion with the Bank but in the nature of rejection that faces the petitioner vide Annexure ‘C’ where she has been disqualified from the appointment simply because she holds a higher qualification, the reasons assigned is not sustainable in absence of any circular supporting such decision and for the reasons so discussed, the order rejecting the claim of the petitioner by the Chief Manager as contained in the letter dated 7.1.2016 is quashed and set aside. The matter is remitted to the appropriate authorities of the Bank to consider the claim of the petitioner for compassionate appointment against an appropriate post and which decision should be taken 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	4.1.2018
Transmission Date	NA

