

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10752 of 2016

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Ajay Kumar, Son of Sri Jugesh Sharma, resident of Village- Gamharpur, Police Station- Khizersarai in the district of Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The Additional Secretary, Home Department, Government of Bihar, Patna.
3. The District Magistrate -cum- Chairman, District Level Selection Committee, Gaya.
4. The Superintendent of Police, Gaya.
5. The Sub-Divisional Magistrate, Neemchak Bathani at Khizersarai, Gaya.
6. The Sub-Divisional Police Officer, Neemchak Bathani at Khizersarai, Gaya.
7. The Circle Officer, Khizersarai, Gaya.
8. The Officer-in-Charge of Khizersarai Police Station in the district of Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Advocate

For the Respondent/s : Mr. Prabhat Kumar, AC to GA-11

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-03-2017

Heard Mr. Sunil Kumar, learned counsel appearing for the petitioner and Mr. Prabhat Kumar, learned Assisting Counsel to Government Advocate No.11 for the State.

With the consent of the parties this matter has been heard with a view to its final disposal at the stage of Admission itself.

The petitioner questions the order bearing Memo No.8 dated 5.2.2016 to the extent, the claim of the petitioner for compassionate appointment to the post of *Dafadar* has been rejected, inter alia, in reference to the policy decision taken by the State vide resolution bearing no.4668 dated 24.6.2011, a copy of



which is enclosed at Annexure-12 and in reference to the earlier rejection of his claim vide order dated 19.6.2004.

The facts of the case relevant for the purpose of disposal is that the uncle of the petitioner was serving as a *Dafadar* and the petitioner claims to be his nominee as according to the petitioner, the deceased was not survived by any son. The petitioner on the death of the *Dafadar*, namely, Vinay Singh filed an application for compassionate appointment and which was considered by the District Level Compassionate Appointment Committee, Gaya and was rejected on 19.6.2004. This rejection was never questioned by the petitioner before any forum rather it is lately that a claim was again raised and on which guidelines were sought for by the District Establishment Deputy Collector, Gaya vide Annexure-8 as well as by the District Magistrate, Gaya vide Annexure-10 and when the District Magistrate Gaya was informed by the Deputy Secretary, Home (Police) Department vide letter dated 16.9.2015 placed at Annexure-11 to take a decision in the light of the Departmental Resolution No.4668 dated 24.6.2011 present at Annexure-12.

It is in consideration of the resolution dated 24.6.2011 which inter alia, cancels the resolution dated 19.11.1994 whereunder the category of dependants to succeed a *Chaukidar/Dafadar* included a nephew for being a nominee of the deceased *Chaukidar/Dafadar*, that the impugned order of rejection



has been passed in reference to the earlier rejection dated 19.6.2004. The resolution also mentions that such of the compassionate appointments which has taken place until the issuance of the resolution dated 24.6.2011 would not be interfered with but those cases which remain pending would be guided by the stipulations present in the resolution dated 24.6.2011. Considering that the case of the petitioner has already been rejected on 19.6.2004 and which decision has not been questioned by the petitioner before a superior forum, now that the resolution relied upon by the petitioner dated 19.11.1994 stands cancelled, by the resolution dated 24.6.2011, the claim of the petitioner is neither sustainable on merits nor does his claim require indulgence on the ground that he in turn seeks to question the rejection which took place on 19.6.2004. No cause of indulgence is made out.

The writ petition is dismissed accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09-03-2017
Transmission Date	NA

