

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16150 of 2008

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Sarvanand Ram, son of late Yadu Lal Ram, resident of Village- Khangaon, P.O. Narhi Chandi, P.S. Chandi, District- Bhojpur.

.... Petitioner

Versus

1. The State of Bihar.
2. The District Magistrate, Bhojpur.
3. The Superintendent of Police, Bhojpur.
4. The Officer-in-Charge, Chandi, District- Bhojpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Singh-I, Advocate.

For the Respondents : Mr. (SC-18)

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-07-2017

I.A. No. 2059 of 2017

This interlocutory application has been filed for amendment in the writ petition by adding the following prayer:

“(iv) Alternatively for issuance of direction to the respondent authority to consider the case of the petitioner for appointment on compassionate ground in view of the application submitted by the petitioner after death of his father which was duly recommended by the authority concerned to consider appointment of petitioner on suitable post”.

2. Having regard to the nature of the prayer, I.A. No. 2059 of 2017 is allowed and treated as part of the main writ petition and the petitioner is permitted to make appropriate amendments in the writ



petition in course of the day.

C.W.J.C. No. 16150 of 2008

3. The present writ petition has been filed for a direction to the respondents to regularize the service of the petitioner on the post of Chowkidar; and to make payment of salary for the period 20.11.2003 onwards for the work done by the petitioner on the said post.

4. Learned counsel for the petitioner submits that the petitioner has been working on 'Abaji' basis since 26.03.1998 when his father had been employed on the post of Chowkidar in Chandi Police Station. The petitioner's father died on 19.11.2003 and thereafter work was continued to be taken from the petitioner which he discharged to the satisfaction of the authorities. It is submitted that the petitioner was issued Bihar Village Police Identity Card by the Superintendent of Police in the year 1998 itself and he is eligible for regularization on the post of Chowkidar. The Officer-in-Charge, Chandi P.S. submitted a list of working Abaji Chowkidars in his letter dated 10.09.2006 addressed to the Circle Officer, Koilwar which clearly shows that the petitioner was discharging his duties as Chowkidar. It is stated however that no salary whatsoever has been paid from 19.11.2003 to the petitioner and for which he approached the District Magistrate, Bhojpur with his representation dated 15.07.2008 but it appears that the same has not been disposed of till date. It is submitted that in the alternative, the



petitioner ought to be considered for compassionate appointment.

5. Learned counsel for the respondents, on the other hand, relies on the counter affidavit filed on behalf of the respondent no. 3 to oppose the claim for regularization of the petitioner submitting that the petitioner merely performed duties on behalf of his father during the latter's lifetime. Thereafter, the S.H.O. of Chandi Police Station stopped the petitioner from performing duties. Issuance of identity card to any police personnel or to the petitioner by the Superintendent of Police is denied. It is further submitted that no appointment letter has been produced to support the petitioner's claim of appointment and as such the question of his regularization does not arise.

6. Having heard the parties and on consideration of the materials on record, this Court does not find merit in the writ petition. The petitioner has not brought any letter of appointment on record. The letter dated 10.09.2006 issued by the S.H.O., Chandi Police Station to the Circle Officer, Koilwar (Annexure-5) relied upon is not a letter of appointment. There is no other document to show that the petitioner has been validly appointed on the post of Chowkidar and hence the question of his regularization cannot arise. Besides, the respondents in para-12 of the counter affidavit have specifically controverted the petitioner's stand by stating that he was never appointed as Abaji Chowkidar nor is he in service as claimed but he only performed the duties of his father during the latter's lifetime. The claim of the



petitioner for regularisation is unsustainable and liable to be rejected.

7. The prayer for compassionate appointment as sought in the interlocutory application cannot also be considered at this belated stage considering that the father of the petitioner died as far back as in the year 2003. It is well settled that the intent and purpose of compassionate appointment is to tide over the immediate crisis faced by the family of the employee who dies in harness. After a lapse of more than a decade, such prayer for compassionate appointment cannot be entertained more so, when the petitioner had applied for compassionate appointment as far back as in December, 2003 itself but does not appear to have pursued the same whatsoever until the present interlocutory application has been filed in the year 2017.

8. This Court therefore does not find any merit on the prayers of the petitioner for his regularization or for his compassionate appointment on the post of Chowkidar, which are accordingly dismissed.

9. This Court however takes note that despite a denial by the respondents with regard to the petitioner having worked as Abaji Chowkidar, there is no satisfactory reply with regard to the letter dated 10.09.2006 of the S.H.O., Chandi Police Station to the Circle Officer, Koilwar (Annexure-5) to the effect that the work of Chowkidar has been taken from the petitioner along with other persons.

10. In that view of the matter, the petitioner is permitted to



approach the District Magistrate, Bhojpur (Respondent No. 2) with a representation for payment against work done by the petitioner as Chowkidar in the Chandi Police Station from 20.11.2003 onwards. If any such representation is filed within a period of three weeks hereof, the same shall be disposed of by the District Magistrate, Bhojpur (respondent no. 2) within a further period of three months thereafter on its own merit upon appropriate verification and after grant of opportunity of hearing to the petitioner in accordance with law.

11. The writ petition stands disposed of.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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