

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6115 of 2014

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Sangeeta Kuamri, D/O Late Awadhesh Kumar Bimal, Resident of Village +
Mohalla – Khemichak, P.S. New Jaganpura, District – Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer Water Resources Department, Govt. of Bihar, Patna.
5. The Superintending Engineer, Design, Investigation and monetering circle,
Anishabad, Patna.
6. The Executive Engineer, Design Division No. 1, Water Resource Department
Anisabad, Patna-2.
7. The District Magistrate, Patna-cum-Chairman District Compassionate
Committee Patna, District – Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bhubneshwar Prasad.

For the Respondent/s : Mrs. Neelu Agrwal

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 28-08-2017

Heard both sides.

2. The petitioner has challenged the order dated 01.03.2014 as contained in Memo No. 649 (Annexure-19) issued by the Chief Engineer, Water Resources Department, Government of Bihar, Patna by which the appointment of the petitioner on compassionate ground vide Letter No. 2875 dated 25.08.2012 was cancelled and consequently the joining of the petitioner on 30.08.2012 is also rejected.

3. In pursuance of the order of the compassionate appointment committee dated 06.01.2014, by which the appointment committee recalled the resolution for recommendation of the appointment of the petitioner on the post of Clerk dated 27.06.2012 on the ground that since the petitioner was married and the circular as contained in Letter No. 13293 dated 05.10.1991 of the Personnel



Administrative Department (Annexure-25) says that the married daughter of the deceased employee is not entitled to get appointment on compassionate ground.

4. Learned counsel for the petitioner submits that father of the petitioner was working as Estimating Officer in the cadre of Executive Engineer in Water Resources Department, Government of Bihar, Patna. The father of the petitioner died on 10.10.2009 leaving behind his widow, three sons and two daughters. The petitioner presented her application for appointment on compassionate ground on 07.11.2009 (Annexure-1). The appointment committee for appointment on compassionate ground took three years to take decision for appointment of the petitioner and accordingly the appointment committee in its meeting dated 27.06.2012 made recommendation for appointment of the petitioner on the post of Clerk. In pursuance thereof, the appointment letter was issued on 25.08.2012 (Annexure-13). The petitioner joined on 30.08.2012 but on 13.09.2012, the petitioner filed petition for grant of maternity leave. Thereafter, the appointment of the petitioner was cancelled vide order dated 01.03.2014 as contained in Memo No. 649 (Annexure-19) in pursuance of the order of the appointment committee held on 06.01.2014. Learned counsel for the petitioner submits that on the date of application, the petitioner fulfilled all the criteria for appointment on compassionate ground. There is no concealment of facts and the petitioner has already informed the authority during the pendency of the petition for appointment that she got married. The appointment committee again resolved to cancel the appointment of the petitioner only because the petitioner was married before her appointment. In pursuance of the aforesaid resolution, the Chief Engineer issued letter to recall the order of appointment of the petitioner and rejected the joining of the petitioner. It is further submitted that the order is illegal. Learned counsel for the petitioner placed his reliance on a judgment of



this Court in case of Shyama Kumari vs. State of Bihar 2010 (1) PLJR 187 in which it has been clearly held that, if the petitioner is eligible for appointment on the compassionate ground and the appointment committee took much time and linger the decision making process, the applicant cannot be denied appointment on compassionate ground if she is married during pendency of that period.

5. On the contrary, learned counsel for the State submits that admittedly on the date of appointment, the petitioner was married on 05.12.2011 and when this fact came to the knowledge of the appointment committee, the appointment committee recalled the resolution by which the name of the petitioner was recommended for appointment on compassionate ground.

6. Having considered the submissions and on perusal of the record, I find that the petitioner, herself, made application on 07.11.2009 for appointment on compassionate ground. She disclosed all the relevant facts that her father died leaving behind his widow, three sons and two unmarried daughters and out of three sons two were employed. While the petition for appointment was being processed many defects were removed. It also transpired that the petitioner informed the department that she was married on 05.12.2011. Thereafter the appointment committee found the petitioner suitable and recommended her name for appointment on the post of Clerk on 27.06.2012. This fact is also admitted that before the recommendation made by the appointment committee to appoint the petitioner, the petitioner informed the committee that she got married. Therefore the cancellation of appointment of the petitioner after recalling the recommendation of the resolution of the appointment on the ground that the petitioner was married on the date of appointment is illegal, bad and not sustainable. This Court has also held in the case of Shyama Kumari (supra) that on the application of the applicant for appointment on compassionate ground the



appointment committee made inordinate delay in taking decision for appointment of the applicant and the applicant later on got married, her application cannot be rejected and she cannot be denied appointment on the ground that she is married.

7. Having regard to the facts and discussions made above, the writ petition is allowed and consequently the order dated 01.03.2014 as contained in Memo No. 649 (Annexure-19) Patna by which the appointment of the petitioner on compassionate ground vide Letter No. 2875 dated 25.08.2012 was cancelled and consequently the joining of the petitioner on 30.08.2012 is also rejected are set aside.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.09.2017
Transmission Date	NA

