

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1159 of 2015
IN
Civil Writ Jurisdiction Case No. 5368 of 2008**

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Umakant Mishra Son of Late Shatrughan Mishra, resident of Village and P.O.
Maharani, P.S. Mahammadpur, District - Gopalganj

.... Petitioner - Appellant

Versus

1. The State of Bihar
2. The District Magistrate, Siwan
3. The Block Development Officer, Maharajganj, P.O. and P.S. Maharajganj,
District - Siwan

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Bipin Bihari Singh, Advocate.

For the Respondent/s : Mr. Binay Kumar, AC to SC 10.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 03-08-2017

Mere recommendation of the Compassionate Appointment
Committee cannot form the basis if by change of circumstances the
enforcement or implementability of the said decision became difficult.

No doubt, petitioner's case was recommended for
appointment on a Class III post having pay scale of Rs. 4000-6000 in
the Consolidation Department where his father was an employee but
since the Consolidation Office itself was on the verge of closure,



therefore, the appellant came to be accommodated in the concerned Collectorate. Since there was no corresponding post of Assistant in the pay scale of Rs. 4000-6000 but there was an opening of Lower Division Clerk in the pay scale of 3050-4500, the appellant came to be appointed. He accepted the appointment, worked on the post for eight years and then realized that he is being paid a salary lower than what was recommended for appointment by the Compassionate Appointment Committee.

Appointment on compassionate ground by itself is a bounty which is done in violation of Articles 14 and 16 of the Constitution of India. Therefore, it is a weak kind of right which a person claims. Secondly, the appellant accepted the post and position, without any protest and murmur, worked on the said post for eight years and then pleads arbitrariness for the kind of pay scale which he was deriving on the post of Lower Division Clerk. All this is a clear indication that the petitioner was never serious about the pay scale which he was offered in the employment. He was more interested in begetting employment first, making himself comfortable in the system and trying to take a chance for a higher pay scale which is available on the next higher post which is a promotional post. He, therefore, he cannot be given the benefit, which he expects, by allowing him a jump on the promoted post because the pay scale of Rs. 4000-6000 is



available for the post of Upper Division Clerk.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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