

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23192 of 2012

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Amod Kumar S/O Late Dinanath Prasad Yadav Resident of Village- Sathaura,
P.O.- Jhajhara, P.S.- Jitana, District- East Champaran

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Collector, Madhubani
2. The Collector, Madhubani
3. The Additional Collector (Establishment), Madhubani
4. The District Registrar, Madhubani
5. The District Sub-Registrar, Madhubani
6. The District Compassionate Appointment Committee, Madhubani
7. Principal Secretary, Personal and Administrative Department, Govt. of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Verma, Adv.
Mr. Suman Kumar Verma, Adv.
Mr. Anish Kumar, Adv.
Mr. Amresh Kumar, Adv.

For the Respondent/s : Mr. S. Rahman, AC to GP-24

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-12-2017

Heard learned counsel for the parties.

In the present writ application, the petitioner is claiming that he should be appointed on compassionate ground, merely the employment of one of his brother will not make him deprived of the benefit of the same as the elder brother of the petitioner has been living separately which has been substantiated by the affidavit filed by the mother wherein she has specifically stated in this regard and the decision of the District Compassionate Appointment Committee vide order dated 26.9.2012 decided with respect to the petitioner refusing to



grant the benefit of compassionate appointment is completely illegal and, as a consequence, the communication through Memo No. 1559 dated 27.9.2012 is liable to be set aside.

The father of the petitioner was employed as a Clerk in the office of the District Sub-Registrar, Madhubani, he died in harness on 18.9.2010 leaving behind his wife, namely, Most. Raj Kumari Devi and three sons and two daughters, genealogical table has been attached with the petition. It has been informed that first son is a teacher, second son is doing some business and the present petitioner is the third one and both the daughters have already married. The petitioner, being the last son, applied for compassionate appointment and filed application along with necessary document in the office of Collectorate, Madhubani, the District Compassionate Appointment Committee proceeded over the same and arrived to a finding that the petitioner cannot be appointed as one of his brother is already in government service.

Learned counsel for the petitioner submits that his brother is a Panchayat Teacher, not a government servant but, the question is compassionate appointment cannot be claimed as a matter of right, is given when the sole bread earner dies leaving behind his family in the penury and destitute. Compassionate appointment cannot be claimed by way of right but, a privilege is given to the family in



event such crisis erupts on account of death of the sole bread earner. If the family condition is not in a bad financial condition, as a matter of course, the appointment on compassionate ground cannot be given.

Learned counsel for the petitioner has placed in service the judgment in the case of *Santosh Kumar Vs. The State of Bihar* reported in *2013 (1) PLJR 454* and, on that strength, he has submitted when there is a scheme for appointment on compassionate ground, the reason, which has been assigned, is not sustainable in law. He has further placed reliance on the judgment dated 3.9.2014 passed in C.W.J.C. No. 8956 of 2013 placed reliance on the Division Bench judgment reported in the case of *Ashok Kumar Choudhary Vs. The State of Bihar* reported in *2000 (4) PLJR 651*. There the Lordship has held that if there is no financial constringency and the family is not in the stage of penury, he can be deprived of the benefit of compassionate ground. This issue has directly been answered in the order passed in the case of *Vishal Kumar Vs. The State of Bihar* reported in *2004 (2) PLJR 453* wherein one of sibling was already in the job has been refused to grant the benefit of compassionate appointment. Similarly, in the case of *Sanjay Kumar Vs. The State of Bihar & Ors.* reported in *2013 (1) PLJR 742*, two sons were already in government service, the authority refused to grant compassionate appointment, has been affirmed by the Division Bench in which I am also a party. The purpose of compassionate



appointment has been laid down in the judgment reported in the case of *Umesh Kumar Nagpal Vs. State of Haryana & Ors.* reported in **1994 (4) SCC 138** relevant portion whereof reads as follows:-

“For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

The same view has been also taken in the case of Ashok Kumar Choudhary (supra) where the Court has also refused to grant relief to the petitioner for compassionate appointment.

In view of the above, this Court does not find any merit in the present writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
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