

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1434 of 2014
IN
Civil Writ Jurisdiction Case No. 536 of 2013**

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Zaheer Abbas, son of Late Mustaque Ahmad, Resident of village Sikta Deoraj, P.O. Baswaria, P.S. Lauria, District West Champaran, Bettiah.

.... Appellant/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. The Director-in-Chief Health Services, Bihar, Patna.
3. The Civil Surgeon-cum-Chief Medical Officer, West Champaran, Bettiah.
4. The Collector, West Champaran, Bettiah.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Abdul Wadood, Advocate
For the Respondent/s : Mr. Ramadhar Singh, GP-25

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 28-04-2017

Learned Single Judge had dismissed the writ application of the appellant vide his order dated 16.01.2014. The prayer made in the writ was for a direction upon the respondent authorities to give him appointment on a Class-III post. One of the reasons given was that there is discrimination.

Since the appellant himself was a beneficiary of an appointment on compassionate ground, which violates Articles 14 and 16 of the Constitution, he can not claim further parity or equality under the Constitution of India.



Even otherwise the reason given by the learned Single Judge for rejecting the writ application is also based on principle of law settled by the Hon'ble Apex Court, the relevant paragraph of the decision of the learned Single Judge is reproduced hereinbelow :

*“As a matter of fact the petitioner should treat himself fortunate that at least he had been appointed on a class-IV post by way of compassionate appointment, inasmuch as, there are large number of persons who are in search of employment even on a class-IV post. The whole idea of compassionate appointment is to provide immediate source of livelihood for the dependents of the deceased employee. The compassionate appointment therefore, cannot be claimed as a matter of right. In any event, there is no concept of “endless compassion” as has been held by the apex Court in the case of **State of Rajasthan Vs. Umrao Singh** reported in 1994(6) SCC 560 wherein it has been also explained that upon being offered appointment on a lower post by way of compassion and its acceptance, the right for consideration against a higher post is automatically extinguished.”*

There is no infirmity in the decision of the learned



Single Judge. This Court is not willing to interfere with the
impugned order. Appeal is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

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