

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.67 of 2017

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Chandan Kumar, S/o Late Kaper Chand Yadav, Resident of Village- Baijnath Patti,
Post- Simraha, P.S. + District- Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Rural Development, Bihar, Patna.
3. The Commissioner, Kosi Division, Saharsa.
4. The Collector, Saharsa.
5. The Deputy Development Commissioner, DRDA, Saharsa.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mallika Mazumdar, Adv.

For the Respondent/s : Mr. Harosh Kumar, GP-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-08-2017

Heard Ms. Mallika Mazumdar, learned counsel appearing
for the petitioner and Mr. Harish Kumar, learned Government
Pleader No.8 for the State who also appears for the District Rural
Development Authority, Saharsa.

The petitioner is aggrieved by the action of the District
Rural Development Agency, Saharsa (hereinafter referred to as the
'DRDA') in not providing him compassionate appointment for
which application was filed by the petitioner on 3.9.2016.

The undisputed fact on records of the proceedings is that
the father of the petitioner was serving as a Peon in the respondent
'DRDA', Saharsa and died in harness on 3.12.2015. The petitioner
filed his application for compassionate appointment but was not
acted upon and hence the writ petition.



While it is the argument of Mr. Harish Kumar, learned counsel appearing for the 'DRDA', Saharsa in reference to the counter affidavit filed on their behalf that there is no provision in the 'DRDA' for appointment on compassionate ground and that the services of the petitioner's father was temporary in nature but such argument has been contested by Ms. Mallika Mazumdar, learned counsel appearing for the petitioner to submit that the very fact that the salary of the petitioner was revised by virtue of pay revision with effect from 1.1.1996 and again with effect from 1.1.2006, this by itself confirms his services.

In response to the plea taken by the 'DRDA' that no system of compassionate appointment is prevalent in the 'DRDA' learned counsel has relied upon a Division Bench judgment of this Court since reported in **2012(1) PLJR 587 (Bimla Tiwary vs. The State of Bihar)**. Relying upon the judgment she submits that on a similar objection taken by the 'DRDA', Buxar, that it was not only rejected by the Division Bench but orders were issued for consideration of the case of the applicant on compassionate ground.

Paragraphs 7 and 8 of the judgment passed in the case of **Bimla Tiwary** (supra) would be a guidance to the issue raised in the present proceeding, which runs as under:

“7. We are also of the opinion that there cannot be any discrimination district-wise basis as the employees working in the D.R.D.A., Buxar should also be treated to be an employee of the



State Govt. working under the D.R.D.A. agency which is an authority under Article 12 of the Constitution of India. It is also observed that as the agency of the Government is also provided funds by the State Government, therefore, it also falls under Article 12 of the Constitution of India and therefore, the actions are liable to be questioned under Article 226 of the Constitution of India.

8. Under the above circumstances, we are of the opinion that D.R.D.A. is bound to follow the rules which was adopted by the State Govt. in appointing the personnel on compassionate ground whose kith and kin died in-harness working under the State Govt. Accordingly, we deem it fit and proper to remand the matter to District Magistrate, Buxar to reconsider the matter afresh in the light of the observation as stated supra.”

In view of the opinion so expressed by the Division Bench in the case of **Bimla Tiwary** (supra), I deem it fit and proper to direct the respondent no.5, the Deputy Development Commissioner, ‘DRDA’, Saharsa to consider the case of the petitioner for compassionate appointment and dispose of the same in accordance with law within a period of three months from the date of receipt/production of a copy of this judgment.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29.08.2017
Transmission Date	NA

