

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12036 of 2017

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1. Nagia Devi, Widow of Late Satya Narain Rai
 2. Santosh Kumar, Son of Late Satya Narain Rai Both Residents of
Jamaluddinchak, P.O. Khagaul, P.S. Danapur, District- Patna.

.... Petitioners

Versus

1. The Union of India through the General Manager, E.C. Railway,
Hajipur.
2. The Divisional Railway Manager, E.C. Railway, Danapur.
3. The Senior Divisional Personnel Officer, E.C. Railway, Danapur.
4. The Assistant Personnel Officer, E.C. Railway, Danapur.
5. The Assistant Engineer (Line), E.C. Railway, Danapur.
6. Bijendra Prasad, Son of Late Satya Narain Yadav, Resident of
Jamaluddinchak, P.O. Khagaul, P.S. Danapur, District Patna.

.... Respondents

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Appearance :

For the Petitioners	:	Mr. Gautam Bose, Sr. Advocate Mr. Rohit Mishra, Advocate Mr. Ajay Kumar, Advocate
For the Railway	:	Ms. Kalpana, Advocate

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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: 14-11-2017

Heard Sri Gautam Bose, learned Senior
counsel for the petitioners, and learned counsel for the
Railway.

2. The Original Application (in short the "O.A.")
No. 625/2014 filed by the present petitioners before
the Central Administrative Tribunal, Patna Bench, Patna
(hereinafter referred to as the "Tribunal"), has been
dismissed vide order dated 05.05.2017. The effort to



beget compassionate appointment for petitioner no. 2 has failed, therefore, the Writ Application.

3. In the present case, the fight between two brothers is the reasons for the present predicament for both the family as well as the two petitioners. However, since compassionate appointment cannot be made into a game of musical chair, therefore, dismissal of the O.A. by the CAT, for the facts, cannot be said to be erroneous.

4. The father of petitioner no. 2 died in harness on 15.07.2006. Petitioner no. 2 is the son from the second wife and private respondent no. 6 is the son from the first wife. Initially, petitioner no. 2 managed to get appointment under compassionate head. He worked for about two years. Private respondent no. 6 filed an O.A. before the Tribunal making a grievance that his right, being the eldest son from the first wife, was ignored and petitioner no. 2 has been wrongly appointed. The O.A. was allowed. The High Court affirmed the order and because of the same the petitioner no. 2 was removed from service and offer for appointment was given to private respondent no. 6.

5. When the claim of private respondent no. 6, namely, Bijendra Prasad was being processed, it transpired that he did not have the basic minimum qualification for any appointment under the Railway



authorities. He did try to obtain and procure certification of School Leaving of 8th Standard, but when the authorities asked him to write a few lines, he could not even write a single sentence and the certificate was found to be forged. Because of the said fact, the Railway decided not to appoint him since he was found to be ineligible.

6. When the private respondent no. 6 got ousted from the zone of consideration, petitioner no. 2 again presented himself before the Tribunal seeking a direction that since the post has remained vacant and he was occupier of the said post earlier under compassionate appointment he must be given an opportunity again.

7. This effort of the petitioners has failed and now the writ application is directed against the same object of begetting an appointment under compassionate head.

8. The Court is not impressed by the line of argument made by learned Senior counsel that the High Court had not barred petitioner no. 2 from reconsideration, if private respondent no. 6 was ineligible, then, the right or claim of family for compassionate appointment was still open and he should have been considered and appointed back on the post. It is for this reason that the Court observed in



the earlier part of the order that compassionate appointment is not a game of musical chair.

9. The appointment of the second petitioner was found to be erroneous both by the Tribunal as well as the High Court in the very first place. The right of private respondent no. 6 was rightly upheld but once the private respondent no. 6 was not found to be eligible or he made himself ineligible, then, it does not mean that petitioner no. 2 gets a right for reconsideration automatically.

10. Even otherwise, death of the employee happened in the year 2006. Eleven years have been gone past now. It is high time, the issue is allowed to rest. The object of compassionate appointment has been lost during these years which has gone behind, and, therefore, the court is not inclined to interfere with the order of the Tribunal.

11. This Writ Application is dismissed.

(Ajay Kumar Tripathi, J.)

(Rajeev Ranjan Prasad, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.11.2017
Transmission Date	NA

