

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22620 of 2013

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SUNIL KUMAR SON OF LATE SHEO PUJAN SINGH RESIDENT OF
VILALGE JONAHA, P.S.-KARPI, DIST.-ARWAL

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Begusarai
3. The Sub Divisional Officer, Bakhari, Begusarai
4. Anil Kumar Son Of Late Sheo Pujan Singh Resident Of Village - Janaha, P.S.-
Karpi, Dist.-Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Girish Chandra Jha
For the Respondent/s : Mr. Nirbhay K.Singh

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-04-2018

Heard learned counsel for the parties.

2. This writ petition under Article 226 of the Constitution of India has been filed for quashing the order dated 02.08.2013 by which respondents have rejected the claim of petitioner for his appointment on compassionate ground as contained in Anneuxre-7.

3. The father of the petitioner was appointed as Chakbandi Amin in the year 1979 and lastly posted at Bakhari in the district of Begusarai on the post of revenue clerk when he died in harness on 29.08.2005. Petitioner filed an application with affidavit being sworn by other family members for grant of compassionate appointment. Both respondent no. 4 had given no



objection on oath for appointment of appellant on 16.11.2005 but still he filed the writ petition being CWJC No. 9130 of 2007 with a prayer for his compassionate appointment. The petitioner filed intervention petition and was added party and the same was disposed of on 06.04.2011 in favour of respondent no. 4. Petitioner preferred LPA No. 1906 of 2011 which was disposed of on 09.12.2011 and observation made by learned Single Judge was set aside and pursuant to direction petitioner filed a representation before the respondent no. 2, the District Magistrate, Begusarai, and notice dated 11.02.2012 was sent by him to all the family members to appear before him on 27.02.2012 along with relevant documents regarding the respective claim with respect to compassionate appointment and petitioner appeared and he was asked to furnish Non Employment Certificate of his family members which was sent by Speed Post on 03.04.2012.

4. No decision was taken by respondent no. 2 with respect to their claim for compassionate appointment and petitioner filed MJC NO. 5258 of 2012 and on violation of writ court's order on 08.08.2013 a show cause was filed with order dated 02.08.2012 rejecting the claim of petitioner that as per notification issued by Finance Department dated 31.03.2011, the



eligibility for Class-IV post has been made matriculation which was class-8 earlier and the contempt petition was disposed of with liberty to the petitioner to challenge the order passed by respondent no. 2 and thereafter present writ petition has been filed challenging the said order passed by the District Compassionate Appointment Committee rejecting the claim of petitioner for appointment on compassionate ground on Group-D post as he was only 8 pass and was not a matriculate.

5. A counter affidavit has been filed on behalf of the respondents, in which it has been stated that petitioner does not possess requisite qualification for appointment on Group-D post, the claim of the petitioner has been rejected on the sole ground that he is 8th pass whereas eligibility for appointment on Class-IV post is 10th pass, as such his case has been rejected.

6. After hearing the parties and perusing the materials on record, it is apparent that notification by which eligibility for appointment on Class-IV post enhanced from Class-8 to matriculate was issued on 12.12.2012 whereas case of petitioner is to be considered on the basis of Rules as existed on the date of death of his father or on the date of his application and since when petitioner filed his application on compassionate ground, the eligibility for appointment on Class-IV post was Class-8, as



such any subsequent enhancement of eligibility from Class-8 to class-10 will be not applicable in the case of petitioner. It has also been brought to the notice of this Court that subsequently the eligibility for appointment on Class-IV post has again been reduced by the Government from Class-10 to Class-8, as such the rejection of claim of the petitioner that he was not eligible as his qualification was not matriculate is not sustainable in the eye of law, as such order dated 02.08.2013, is set aside.

7. The D.C.A.C. through respondent no. 2, District Magistrate, Begusarai is directed to reconsider the case of petitioner for compassionate appointment under the scheme and in accordance with law within three months from the date of receipt/production of a copy of this order.

8. With observation and direction as stated above, the writ petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.04.2018
Transmission Date	N.A.

