

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15248 of 2015

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Vikash Kumar, son of Late Jai Kumar, resident of Mohalla Chandanipar,
Mathuriya P.S. Lahari, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, General Administration Department Bihar, Patna
2. The Principal Secretary, Water Resources Department Bihar, Patna
3. The Joint Secretary General Administration, Bihar, Patna
4. The Engineer-in-Chief, Water Resources Department, Patna.
5. The Chief Engineer, Water Resources Department, Bihar, Patna
6. The Executive Engineer Water Wages Division Bihar Sharif Nalanda
7. The Collector, Nalanda, Bihar Sharif
8. The Deputy Collector, Establishment Nalanda, Bihar Sharif.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Sinha, Advocate

For the State : Mr. Anil Kumar Sinha, GA 1

Ms. Aditi Hansaria, AC to GA 1

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 09-04-2018

Heard counsels for the petitioner and the respondent State.

2. The petitioner is the son of the employee who died in harness while working as peon in the office of the Executive Engineer, Water Wages Division, Bihar Sharif, Nalanda.

3. The petitioner's claim for compassionate appointment has been rejected by assigning reason that since the order of confirmation of the petitioner's service has been issued on 25.02.2009 i.e. after the death of the petitioner's father on 23.08.2007 therefore, his claim could not be considered.



4. Petitioner's counsel has submitted that his father performed his duty on the post of Peon in the aforesaid office ever since 16.02.1969 untill his death on 23.08.2007 i.e., more than 28 years. He submits that in light of circular dated 05.10.1991 bearing memo no. 3/C2-2067/90 Ka, 13293 issued by the Personnel and Administrative Reforms Department, the petitioner was entitled for consideration of his case for compassionate appointment and the same could not have been rejected by assigning the said reason.

5. This Court under the earlier order had allowed the respondent State an opportunity to inform this Court whether the said circular of 05.10.1991 still holds grounds or has subsequently been modified.

6. Second supplementary counter affidavit has been filed. It is specific stand of the State that the same still in force with some addendum and clarification issued from time to time. They have submitted that since the employee has been continued in service for about 28 years, and much after the initial 3 years period of probation a legal presumption in respect of confirmation of the petitioner's service could be considered and in view of his long continued service, such confirmation order which has been issued on 25.02.2009 may not have been required altogether.

7. In view of the aforesaid submission, this Court would



quash the order rejecting the claim of the petitioner for compassionate appointment by the Compassionate Committee under order dated 22.01.2013 contained in letter no. 158. The respondents would however, be obliged to consider the petitioner's case treating his late father as being a confirmed employee in light of their own circular dated 05.10.1991 referred to hereinabove and the stand of the State taken in the second supplementary counter affidavit. Final decision in respect of the petitioner's claim for compassionate appointment should preferably be taken within a period of three months from the date of receipt/production of a copy of this order.

8. The writ petition is dispose off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.04.2018
Transmission Date	

