

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2171 of 2015
IN
Civil Writ Jurisdiction Case No. 13085 of 2008**

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Madheshwar Mistri son of late Jagdish Mistri Resident of Village- makhmildpur,
P.S. Paliganj, District Patna.

.... Appellant

Versus

1. The State of Bihar
2. The Chief Secretary, Govt. of Bihar.
3. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
4. The Director General-cum-Inspector General, Government of Bihar.
5. The Inspector General (Personnel) Govt. of Bihar.
6. The Superintendent of Police, Motihari, East Champaran.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Nagendra Kumar, Adv.

Mr. Dharmendra Kumar, Adv.

For the Respondent/s : Mr. Saroj Kumar Sharma, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date: 04-10-2018

A counter affidavit is being filed on behalf of respondent no. 6
by Mr. Saroj Kumar Sharma, learned AC to AAG 3. Let it be taken on
record.

In the nature of the order that we propose to pass, we do not
need to wait for filing of the rejoinder thereto.

This intra-Court appeal arises from a judgment and order of
the learned Single Judge of this Court passed in CWJC No. 13085 of
2008, whereby the writ petition was dismissed, inter alia, on grounds
that the death happened 11 years ago and the petitioner was of 48
years of age.



Feeling aggrieved, the petitioner filed the intra-Court appeal and when this Court taking note of the arguments advanced and the recommendation made in favour of the petitioner for compassionate appointment by the Superintendent of Police to the Inspector General of Police (Personnel) as back as on 02.08.2015 as well the fact that no follow up action was taken by the respondents thereafter, issued direction to the respondents to inform as to the follow up action taken on the said recommendation because even if the petitioner was not eligible for appointment on the post of Constable, a recommendation was there for his appointment on other post as per his qualification and insofar as the age factor is concerned, the relevant circular on issue itself provided for its condonation.

It is realizing the position on observation made by this Court in the order dated 12.09.2018 that a counter affidavit has been filed on behalf of the Superintendent of Police, East Champaran, Motihari (respondent no. 6) today and the stand taken in paragraphs 9 and 10 thereof itself would be sufficient for disposal of the appeal for the present, which reads under:

“9. That, in compliance to above two orders passed by the Hon’ble High Court, the office of the DGP, Bihar, Patna, vide his Memo No. 715/391485/P-3, dated 28.09.2018 communicated to the Superintendent of Police, Motihari directing the Superintendent of Police, Motihari for taking steps of constitution of the District Compassionate Appointment Committee for appointment of LPA petitioner



on the post of group-‘D’ in accordance with law

10. That, in compliance to order of the Police Headquarter, the Superintendent of Police has taken steps for constitution of the District Compassionate Appointment Committee and process of appointment of the writ petitioner on group-‘D’ post in accordance with law has been taken-up.”

In view of the stand taken by the respondents reproduced above, where steps have been taken by the respondents for constitution of the Compassionate Committee for appointment of the petitioner against group-‘D’ post, we do not feel the necessity of keeping the appeal pending, rather would direct the respondent authorities including those forming part of the Compassionate Committee to take expeditious steps for taking the issue to its logical conclusion preferably within three months from today.

For the discussions above, the order passed by the learned Single Judge in CWJC No. 13085 of 2008 is accordingly set aside.

The appeal is allowed with the directions above.

(Jyoti Saran, J)

(Nilu Agrawal, J)

Archana/Surendra

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.10.2018
Transmission Date	NA

