

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14840 of 2015

=====

Balram Prasad Gupta S/o Late Pitambar Gupta, resident of village and P.O.-
Pathra, P.S.- Pipra, District- Supaul **Petitioner**

Versus

1. The State of Bihar through the Superintendent of Police, Nawada.
 2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
 3. The Principal Secretary, Home (Special) Department, Government of Bihar, Patna.
 4. The Director General of Police, Bihar, Patna.
 5. The District Compassionate Committee, Nawada through the District Magistrate, Nawada.
 6. The Superintendent of Police, Nawada.
 7. The Deputy Collector (Establishment), Nawada **Respondents**
- =====

Appearance :

For the Petitioner : Mr. Subodh Kumar Jha, Advocate
Mr. Mukeshwar Dayal, Advocate
For the State : Mr. Durgesh Nandan, AAG 14 &
Mr. Jitendra Kumar, AC to AAG 14

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 27-08-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner has approached this Court in third round of litigation, being son of second wife of the deceased Government employee, who died in harness. He submits that claim of the petitioner has been rejected by the District Compassionate Committee, Nawada on the ground that his father had contracted second marriage after coming into Government employment. Petitioner's claim has been rejected relying upon the circular dated 23.6.2005 bearing Memo no. 937, wherein certain guidelines including exception have been provided for being considered while processing claim of the applicant for compassionate appointment.



Relying upon the Division Bench judgment of this Court in case of **Purushottam Kumar @ Puroshattam Kumar Vs. State of Bihar**, reported in **2005 (3) PLJR 458** learned counsel for the petitioner has rightly submitted that irrespective of the fact that the marriage was contracted after the employee coming into Government service, claim of the son of such second wife was entitled to be considered on the merits of its own claim. Relying upon the said Division Bench judgment, prayer is made that the matter may be reconsidered by the District Compassionate Committee.

3. Learned counsel for the respondents has raised a plea that the petitioner has taken conflicting stand in the earlier case wherein he has submitted that his father had contracted second marriage prior to coming into Government service. It is also submitted that 10 years have lapsed since the employee died in harness. Thereafter, considering the fact that the concept of compassionate appointment is to provide immediate succor, petitioner's claim for compassionate appointment should not be considered.

4. Submission of learned counsel for the State is noted to be rejected. Admitted position in the instant case is that the petitioner's father had entered into second marriage after obtaining employment and it has been held to be irrelevant for the purpose of



consideration of claim of the son of such second wife in the Division Bench judgment taken note of herein above. The fact that the petitioner has managed to survive for ten years and has been compelled to approach this Court in third round of litigation cannot go against the petitioner.

5. The District Compassionate Committee, Nawada should expeditiously consider the petitioner’s claim in light of the law laid down in the Division Bench judgment taken in the case of **Purushottam Kumar (supra)**. The petitioner should make his claim placing reliance on the said judgment within a period of three weeks from today, if he is keen on obtaining the appointment. In the event such application is made, the District Compassionate Committee, Nawada should consider the case and take a final decision on the said claim by passing reasoned and speaking order in accordance with law within a period of three months thereof.

6. The writ petition is disposed of.

(**Madhuresh Prasad, J**)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2018
Transmission Date	NA

