

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3482 of 2017

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1. Chandrawati Devi, Wife of Late Hari Lal Prasad Keshari.
 2. Sanjeev Ranjan Keshari, S/o Late Hari Lal Prasad Keshari Both residents of Indrapuri, Road No. 7C, House No. 17, P.S. patliputra in the town and District of Patna-800024.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar Patna.
2. The Principal Secretary, Human Resources Department, Bihar, Patna. Distt. Patna.
3. Director (Secondary Education) Bihar, Patna.
4. The District Officer-cum-Chairman, District Compassionate Committee, Patna.
5. The Chairman Central Compassionate Committee, General Police Administration Department, Bihar, Patna.
6. The Establishment Deputy Collector, Collectariate, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Singh, Sr. Advocate
		Mr. Baban Roy, Advocate
For the Respondent/s	:	Mr. MADANJEET SINGH, GP-20

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

7 15-02-2018 Petitioner no. 1 is the widow of the deceased Hari Lal Prasad Keshari and the petitioner no. 2 is the youngest son of the said deceased who died in harness on 08.10.2014 at Patna while working as clerk in the office of the Director, Bihar Secondary Education, Patna.

The petitioner no. 2 with the consent of the petitioner no. 1 had applied in the prescribed form for compassionate appointment, however, his case is said to have been rejected on the ground that the oldest son of the deceased was working with the U.C.O. Bank, hence no compassionate appointment could be



granted to the petitioner no. 2. It was further stated that the said decision is based on the decision of this Court wherein it has been held that in case one of the dependent of the deceased is employed then any other legal heir of the said deceased who has died in harness, cannot be provided with compassionate appointment. This proposition of law has been decided by this Court in a judgment dated 27.07.2004 passed in CWJC No. 6668 of 2003 and CWJC No. 7044 of 2003.

The learned senior counsel appearing for the petitioners has contended that the case of the petitioners is fortified by a judgment reported in 2016(3) PLJR 923 (Sunni Kumar Singh vs. The State of Bihar & ors.). The learned senior counsel further submits that the aforesaid judgment dated 27.07.2004 passed in CWJC No. 6668 of 2003 and CWJC No. 7044 of 2003 has been distinguished by this Court vide order dated 18.08.2011 passed in CWJC No. 15600 of 2009.

I have heard the learned counsel for the parties and perused the materials on record and I find that the law on the subject matter has been conclusively declared in a case reported in 2000(4) PLJR 651 (Ashok Kumar Choudhary vs. State of Bihar) (D.B.), paragraph-13 whereof is reproduced hereinbelow:

“13..... Thus, the crucial test to decide as to whether a person is to be appointed on



compassionate ground or not is to find out whether the family has other sources of livelihood or not at the relevant time to meet the hardship, and once it is found that the financial condition is sufficient to tide over crisis, then no appointment can be made on compassionate ground and the question whether the other spouse is continuing in service or has retired is wholly immaterial.”

In view of the aforesaid judgment of the Division Bench rendered in the case of Ashok Kumar Choudhary (supra), the law as prevailing on date is that it has to be seen as to whether the family has other sources of livelihood or is left destitute. The crucial test to decide is whether despite the fact that the other legal heir of the deceased is in an employment, whether the family, after the death of the deceased in harness, has other source of livelihood or not and in case it is found that the financial condition is not good for the purposes of tiding over the crisis and the other son/ legal heir of the deceased is not helping the family, the appointment on compassionate ground cannot be shunned.

In view of the conclusive pronouncement made by this Court in the case of Ashok Kumar Choudhary (supra) and the judgment dated 18.08.2011 passed by this Court in CWJC No. 15600 of 2009, I direct the respondent no. 5 or the appropriate authority whosoever may be to call for a proper report at the



middle level and then take a fresh decision in light of the various pronouncements of this Court, as discussed above within a period of eight weeks from today.

The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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