

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1941 of 2015

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Vikash Chandra Son of Late Bhupendra Nath Sinha Resident of Mahendra Bhawan, Jagdeo Nagar, Gali No. 7, P.S. - Ara, P.O. - Anaith, District - Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Science and Technology, Govt. of Bihar, Patna.
3. The Director, Science and Technology, Govt. of Bihar, Patna.
4. The Project Director, Bihar Council of Science and Technology, Indra Gandhi Planetarium, Bailey Road, Patna.
5. The District Magistrate, Patna.

.... Respondent/s

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For the Petitioner/s : Mr Prashant Sinha, Advocate

For the Respondent/s : Mr Ravish Chandra, AC to SC VI

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 25-06-2018

Heard learned counsel for the petitioner as well as the learned counsel for the State.

2 Petitioner has filed the writ petition for a direction upon respondents to appoint the petitioner on Class III post on compassionate ground. It is the case of the petitioner that his father, while working as Driver in Bihar Council of Science and Technology (for brevity, *the Council*) died in harness on 27.05.2013. The petitioner's mother made an application for petitioner's appointment on Class III post and pursuant to the said application submitted along with affidavit of the other legal heirs of the deceased-employee in favour of the petitioner. The petitioner has still not been offered any appointment on Class III post to which he was entitled.



3 The respondents have filed a counter affidavit. Specific stand in the counter affidavit is that there is no provision of appointment on compassionate ground in the Council and, as such, the authorities are helpless in granting compassionate appointment to the petitioner. The respondents have annexed the Service Rules of the Council. By referring to the same, counsel for the respondents submits that there is no provision for compassionate appointment in the Council.

4 Learned counsel for the petitioner, on the other hand, submits that the State Government's scheme for compassionate appointment dated 12.07.1977 provides as follows:

“3. सरकार ने यह भी निर्णय लिया है कि सभी संबंधित विभाग अपने अधीनस्थ सार्वजनिक प्रतिष्ठान, स्वायत्त”ासी निकाय एवं स्थानीय संस्थायें तथा नगरपालिकाओं आदि से उपर्युक्त सुविधायें प्रदान करने के निमित्त निर्दे”ा करें।”

5 Clause 3, at best, contemplates that directions will be issued for making the scheme of compassionate appointment applicable in the concerned Departments and other public sector undertakings, autonomous institutions and local bodies. The fact that such decision has ever been issued/or made applicable in respect of the Council is not evident from the records. It is not the petitioner's case that in fact any direction has been issued by the State Government to the Council to implement the State Government's scheme for compassionate appointment. Thus, the petitioner cannot claim any benefit on the basis of the State Government's scheme



dated 12.07.1977.

6 The other submission of the learned counsel for the petitioner that Clause 2 of the petitioner's late father's appointment order dated 06.03.1990 (Annexure 7) made the State Government scheme applicable also appears to be without any basis. Clause 2 of the appointment order reads as follows:

“2. स्वीकृत वेतन पर समय-समय पर राज्य सरकार द्वारा स्वीकृत अन्य भत्ते एवं सुविधायें देय होगी।”

7 In Clause 2, the reference to allowance and other facilities are in the context of the sanctioned pay of the petitioner's late father which has been prescribed in the same appointment letter.

8 The specific stand of the respondents that the scheme of the compassionate appointment is not applicable to the respondent-Council. There is nothing to show that the State Government's scheme of compassionate appointment was ever made applicable to the respondent-Council. The petitioner, therefore, has no enforceable claim to compassionate appointment.

9 The writ petition filed by the petitioner is devoid of any merit and is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
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