

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8646 of 2015

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Manoj Kumar S/o Late Prakash Nand Jha Resident of Village- Chairiyabad, P.O. Rampur, P.S. Bariyarpur, District- Munger.

.... Petitioner/s

Versus

1. Bihar Rajya Pool Nirmaan Nigam Limited, through its Managing Director, having its Registered Office at 7, Sardar Patel Marg, Patna- 800015.
2. The Managing Director, Bihar Rajya Pool Nirman Nigam Limited, having its Registered Office at 7, Sardar Patel Marg, Patna- 800015.
3. The Secretary, Bihar Rajya Pool Nirmaan Nigam Limited, having its Registered Office at 7, Sardar Patel Marg, Patna- 800015

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Abhimanyu Vatsa, Advocate

For the Respondent/s : Mr Gautam Saha, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 25-04-2018

Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the Corporation.

2 The father of the petitioner died in the year 2005 in harness while working as a draughtsman in the respondent-Corporation. The mother of the petitioner had made an application for appointment of the instant petitioner on compassionate grounds. When the claim was not being acted upon, the petitioner approached this Court by filing *CWJC No 5219 of 2014*. The same was disposed of by order dated 16.05.2014 directing the Corporation to take a decision on the claim of the petitioner for his compassionate



appointment within stipulated time. The respondent-Corporation, thereafter, appears to have communicated a decision in the contempt proceedings bearing *MJC No 3885 of 2014* arising out of the said writ proceedings. Relying upon the decision based on Office Order dated 13.03.2010, the claim of the petitioner was rejected. It was stated that the Corporation has decided to pay a lump sum calculated on the basis of length of remaining service of the deceased employee and, accordingly, the lump sum has been quantified as Rs 7.50 lacs in favour of the petitioner. The said amount is to be offered to the petitioner on the basis of the policy decision taken in the 141st meeting of the Board of Directors of the Corporation. Though the contempt proceedings were dropped but liberty was granted to the petitioner to question the legality of the decision of the Corporation. Accordingly, this writ petition has been filed.

3 The short point, which has been raised on behalf of the petitioner, is that whether the decision of the Board of Directors of the Corporation in its 141st meeting dated 30.06.2009 could be applied retrospectively to reject the claim of the petitioner for compassionate appointment arising in the year, 2005? The issue stands decided in the case of another applicant, namely, Ajay Kumar. This Court, on the writ petition filed by the said Ajay Kumar, under order dated 25.03.2010 passed in *CWJC No 4585 of 2010*, has held in paragraph 4



as follows:

“4. Having heard counsel for the parties, I direct the Corporation authorities to consider the case of the petitioner for grant of compassionate appointment in accordance with law. In the event before the death of father of the petitioner on 29.09.2007, the Board of Directors of the Corporation had resolved in its 141st meeting not to grant compassionate appointment and to pay ex gratia amount, petitioner’s prayer for grant of compassionate appointment cannot be considered, but in the event 141st resolution of the Board of Directors of the Corporation has been taken after 29.09.2007, petitioner’s prayer for grant of compassionate appointment has to be considered by passing a reasoned order, as early as possible, in any case within one month from the date of receipt /production of a copy of this order.”

4 It is submitted that the said order has, till date, not been challenged by the Corporation.

5 In view of this aforesaid situation, the issue stands decided under the said order dated 25.03.2010. The petitioner, thereafter, is entitled to consideration of his claim for compassionate appointment since the claim had arisen much prior to the policy decision taken at the 141st meeting, nearly four years after the death of the petitioner’s father.

6 Let the claim of the petitioner be examined and if he is found fit, then the respondent-authorities would be obliged to allow the claim of the petitioner. Let such consideration be made within



three months from the date of receipt/production of a copy of this order.

7 The writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.04.2018
Transmission Date	NA

