

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6742 of 2017

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Uday Shankar, S/o Ramchandra Mahto, R/o Village & P.O.- Dharmagatpur
Bathua, P.s.- Pusa, District- Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Animal Husbandry Department, Govt. of Bihar, Patna.
3. The Regional Director, Animal Husbandry Department, North Bihar, Muzaffarpur.
4. The District Magistrate-cum-Chairman, District Compassionate Committee, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Adv. Mr. Nikhil Kumar Agrawal, Adv. Ms. Deepika Sharma, Adv.
For the Respondent/s	:	Mr. Rishi Raj Sinha-SC19 Mr. Akhilesh Kumar Sinha, AC to SC-19

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 09-07-2018

Heard learned counsel for the parties.

In this case, the petitioner is seeking relief of compassionate appointment on the ground that the mother has died on 21.2.2011 and the financial condition of the family is in a very bad shape which has been disputed by the State having stated that the petitioner's mother has died against whom the application for compassionate appointment has been filed is under consideration in the present case. The mother of the petitioner has died on 21.2.2011, on that date, the father of the petitioner was already in service, he continued and superannuated on 31.1.2014 and, after retirement of his father, the application has been filed on 1.4.2014.



The basic thrust of the argument of the learned counsel for the petitioner is that within five years, if the other spouse superannuates or dies, in such circumstances, the policy decision of the State Government is that if wife and husband are in government service and one of the spouse dies, in such circumstances, the family will not get the benefit of compassionate appointment, does not apply and, for that, the petitioner has placed reliance on the judgment dated 5.4.2011 passed in C.W.J.C. No. 2059 of 2006 but, in the present case, the fact is otherwise. In that case, the first spouse has superannuated and the other died later on. In that context, this Court in the case of *Dilip Kumar Das Vs. The State of Bihar & Ors.* reported in 2000(2) PLJR 203 has dealt with and held entitled to compassionate appointment that that has also been followed in the case of aforesaid C.W.J.C. No. 2059 of 2006. In that case, the Court has not granted the relief but, has directed for fresh consideration in terms of the policy decision of the Government which was prevalent on 20.11.2002 but, admittedly in the present case, when the mother has died while father was already in service, so, the family was not in the state of penury and basic thrust of compassionate appointment is to give helping hand when the bread earner of the family dies and the family has reached to the penury and to mitigate the financial stringency, the



benefit of compassionate appointment is given so that the family can run its business peacefully seamlessly and without any problem. Reliance in this context may be made to the case of *Umesh Kumar Nagpal Vs. State of Haryana & Ors.* reported in *1994(4)SCC 138*, therein the Hon'ble Apex Court has emphatically held that the compassionate appointment is not a source of appointment but, is given to support the family whose bread earner has died and the family cannot pool his livelihood smoothly. In the present cases, on the death of the mother, the father was in service and it has not been stated in the present writ application that after the death of the mother, what amount was received by the family by way of retirement dues or other financial support. Inasmuch as the father has continued in service up to 31.1.2014, after lapse of five years, an application has been filed on 1.4.2014, that itself indicate the family is not in financial problem and is in position to run their family affairs.

In the result, this Court does not find any merit in the present writ application and the same is, accordingly, dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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