

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7987 of 2017

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Anuj Kumar Son of late Rajendra Malakar Resident of Mohalla Singarhat,
P.S. Sohsarai, District- Nalanda, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Industries Department, Government of Bihar, Old Secretariat, Patna, Bihar.
3. The Director, Handloom and Sericulture Directorate Bihar, Patna , Bihar.
4. The Nirman Prabandhak, Central Processing Plant, Bihar Sharif, Nalanda, Bihar.
5. The Mahaprabhandhak (Central Manager), District Industries Centre, Nalanda, Bihar.
6. The District Compassionate Appointment Committee, Nalanda, through its Head/Chairman, the District Magistrate, Nalanda, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Praveen Prakash
For the Respondent/s : Mr. Kinkar Kumar,SC-9

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 11-04-2018 The present petition has been filed for quashing of order contained in Memo No. 120 dated 03.02.2017 passed by the respondent no. 3 whereby and whereunder the claim of the petitioner for appointment on compassionate ground has been rejected.

The short facts of the case are that the father of the petitioner had died in harness on 09.04.2007 whereafter the petitioner had applied for appointment on compassionate ground by an application dated 16.01.2008, however, the case of the petitioner was rejected. The petitioner had then challenged the said rejection before this Court in CWJC No. 17744 of 2009 and



this Hon'ble Court had disposed of the said writ petition by an order dated 04.03.2010 by setting aside the order of rejection dated 09.07.2009 and directing the authorities to pass a fresh reasoned and speaking order. The said order dated 04.03.2010 passed in the case of the petitioner by this Court was based on order dated 26.09.1998 passed in CWJC No. 15084 of 2009. It might be relevant to mention here that no positive direction, except re-consideration of the case of the petitioner herein, was issued by this Court. Thereafter, it appears that the case of the petitioner was again rejected by an order dated 11.05.2010, which was again challenged by the petitioner in CWJC No. 12140 of 2012 and this Court by an order dated 09.05.2013 directed authorities to consider the case of the petitioner on compassionate ground by considering the fact that the father of the petitioner was a regular employee of the Government of Bihar.

The authorities had then passed an order dated 01.08.2013 whereby and whereunder the case of the petitioner was rejected on the ground that the qualification required for grant of appointment as fixed by resolution dated 31.03.2011 is matric pass whereas the petitioner had only passed the 7th class. The said order dated 01.08.2013 was challenged before this Court in CWJC No. 23409 of 2013, which was disposed of by this Court by an order dated 05.09.2016, however, this Court refrained from quashing order of



rejection dated 01.08.2013 and simply observed that the respondents may re-consider the case of the petitioner in view of the fact that the petitioner has passed matric examination in the year 2014. Thereafter, the respondent no. 3 by the impugned order dated 03.02.2017 has been pleased to reject the case of the petitioner for appointment on compassionate ground on the ground that prior to 12.12.2012 the requisite qualification for appointment was 8th standard pass and vide resolution dated 12.12.2012 minimum qualification for appointment had been re-fixed and now the candidate has to be matric passed. It has been further stated in the impugned order dated 03.02.2017 that death of the government servant in the present case had taken place on 09.04.2007 and the petitioner had filed an application for appointment on compassionate ground on 16.01.2008, the day on which requisite qualification required for appointment was 8th pass whereas the petitioner was only 7th pass, hence the petitioner could not be appointed on compassionate ground.

As far as the question of the petitioner having passed matric examination in the year 2014 is concerned, according to the scheme of compassionate appointment, as contained in circular of the Government dated 27.04.1995, the time limit for submitting application for appointment on compassionate ground is five years from the date of death of the government servant, hence in the



present case the petitioner has obtained the requisite qualification after expiry of the period of limitation, thus the petitioner is not entitled to be granted compassionate appointment.

The learned counsel for the petitioner submits that in view of the order of this Court dated 05.09.2016 passed in CWJC No. 23409 of 2013, the petitioner was entitled to be granted appointment on compassionate ground.

Per contra, the learned counsel for the respondents, referring to the counter affidavit filed by the respondent has supported the impugned order dated 03.02.2017.

Having heard the learned counsel for the parties and perusing the materials on record, one thing is clear that the entire series of litigation and orders passed by the authorities as well as this Court have culminated into the order dated 05.09.2016 passed by this Court in CWJC No. 23409 of 2013, whereby and whereunder this Court had not deemed it fit and proper to quash the impugned order of rejection of the case of the petitioner herein for appointment on compassionate ground, however, by way of compassion and in view of the submission of the learned counsel for the petitioner, this Court had only directed to consider the case of the petitioner in terms of the qualification of matric pass, obtained by him in the year 2014 and take a decision in accordance with law.



I find that undisputedly the petitioner had not attained the requisite qualification within the time limit of 5 years prescribed for the purposes of filing an application for appointment on compassionate ground, hence his case was rightly rejected on account of ineligibility of the petitioner herein at that moment of time.

It is a trite law that a case of appointment on compassionate ground has to be considered in light of the Scheme / Policy of the employer and no deviation can be made from the said Scheme / Policy as well as no inherent right is vested in the legal heirs of the deceased employee for grant of appointment on compassionate ground. Reference in this regard be had to Full Bench judgment reported in **2018(2) PLJR 107 (Union of India & ors. vs. Sanjay Kumar and Ors.)**. It is equally a well settled law that appointment on compassionate ground is granted to the legal heir of the deceased in order to provide immediate financial assistance to the family of a government servant who dies in harness, when there is no other earning member in the family, hence the object of providing such overwhelming relief should not be taken as opening an alternative mode of recruitment to a public employment. Reference in this regard be had to judgments reported in **(1997) 8 SCC 85 (Haryana State Electricity Board & Anr. Vs. Hakim Singh)**,



(1994) 3 SCR 893 (Umesh Kumar Nagpal vs. the State of Haryana), and (1996) 1 SCC 301 (Jagdish Prasad vs. the State of Bihar & Anr.).

Another aspect of the matter is that the petitioner herein was not possessing the requisite educational qualification according to the Scheme prevailing at that point of time, hence he was not eligible to be appointed on compassionate ground. This aspect of the matter has been aptly dealt with in a judgment reported in **(2012) 9 SCC 545 (State of Gujarat & ors. vs. Arvindkumar T. Tiwari & Anr.)**, as well as in a judgment reported in **(2010) 11 SCC 661 (State Bank of India & Anr. Vs. Raj Kumar)**.

For the reasons mentioned above, I find that a full stop should be put to the chequered history of the present case which was required to be nipped in the bud at the very inception without prolonging the fate of the petitioner herein for about a decade, hence the impugned order dated 03.02.2017 is upheld and the present writ petition is dismissed.

(Mohit Kumar Shah, J)

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