

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19119 of 2008

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Jyoti Prakash, son of late Prahlad Paswan, resident of Village Prem Nagar,
P.S.Prem Nagar, P.S. Runnisaidpur, Dist. Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Rural Development Department, Bihar, Patna.
2. The Principal Secretary, Rural Development Deptt., Government of Bihar, Patna.
3. Deputy Secretary to Government, Rural Development Department, Government of Bihar, Patna.
4. District Rural Development Agency, Sitamarhi, District Sitamarhi, through its Managing Director.
5. Deputy Development Commissioner, Sitamarhi, Dist. Sitamarhi.
6. The District Magistrate, Sitamarhi, Dist. Sitamarhi.
7. The Additional Collector, Sitamarhi, District Sitamarhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durga Nand Jha, Adv.

For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 31-01-2018

Heard learned counsel for the petitioner and counsel
for the State.

In this case the petitioner is claiming that he should be
appointed on compassionate ground, prays for quashing the order
contained in Memo No. 1164 dated 18.11.2008, thereby, the claim of
the petitioner for compassionate appointment has been rejected on the
ground that there is no provision in D.R.D.A. to grant appointment on
compassionate ground.

It is not in dispute that the father of the petitioner was
appointed and was working in District Rural Development Agency at



D.R.D.A., Sitamarhi and continued to discharge the duty on the post of Assistant cum Typist under the scheduled caste quota, was drawing the last salary in the scale of Rs. 4000-6000/-. In the year 2007, while discharging the duty as regular Assistant-cum-Typist in the scale of Rs. 4000-6000/-, he died in harness on 3.3.2008, leaving behind his widow and seven other dependent family members. As Late Prahalad Paswan was the sole bread earner of the family, his death has pushed the entire family to the brink of starvation and they were facing complete financial hardship to run the family. For the immediate help, the petitioner had approached to the authority for financial help, whereafter, he was directed to file an application in the prescribed proforma for appointment on compassionate ground. Accordingly the petitioner submitted his application in the prescribed proforma along with other required documents of his educational certificate which reflects that the petitioner has degree of Upshashtri which is equivalent to the Intermediate. Along with application, the income certificate, character certificate and certificate granted by the B.D.O. were also attached. Further said that as per the direction, he has submitted, the affidavit regarding no objection of his family members of his appointment of compassionate ground. The application along with entire document was sent to the District Compassionate Committee with the recommendation in his favour. It has further been



said that the Additional Collector (Establishment) of Department of Sitamarhi Collectorate, without considering the matter that the father was a govt. servant, duly appointed in Sitamarhi Collectorate, returned the entire paper to the Director, D.R.D.A. of Sitamarhi for consideration. The application was considered and it was communicated to the petitioner that as there is no provision for compassionate appointment, his application for appointment on compassionate ground cannot be entertained.

Learned counsel for the petitioner has submitted that certain D.R.D.A. such as Gaya and other D.R.D.A. have given the benefit of compassionate appointment but, the Sitamarhi D.R.D.A., illegally with a malafide intention, has refused to grant the benefit of compassionate appointment. It has further been submitted that the Government has taken a policy decision on 13.11.2003 that those who are working in the D.R.D.A. prior to 1.4.1999 will be absorbed in the services of the State Government and a direction was given to take steps for such absorption on priority basis but, the fact in the present case is that the petitioner was never absorbed in the government service, he all through remained as a person employed in the D.R.D.A.

Learned counsel for the petitioner has submitted that as there is a government notification for absorption but, the failure on the



part of the State to absorb the father of the petitioner will not preclude the petitioner from being appointed on compassionate ground, inasmuch as, also other D.R.D.As. in the State of Bihar have granted relief of appointment on compassionate ground but, the petitioner has been deprived of the benefit of such appointment.

Per contra, learned counsel for the State has submitted that the father of the petitioner was never an employee of the State Government but, he was appointed in the D.R.D.A. and died in the D.R.D.A. itself and there was no provision in the D.R.D.A. for compassionate appointment. So the decision of the Director refusing to grant benefit of appointment on compassionate ground cannot, in any manner, will be said to be illegal and not sustainable in law.

Having given the anxious consideration to the rival contentions of both the parties, it emerges that though the Government has issued notification dated 13.11.2003 to take steps for absorption of the employees, who have been working in the D.R.D.A. prior to 1.4.1999 in the D.R.D.A. but, the fact remains that up to the date of death of the father of the petitioner, he was not absorbed in the service of the State Government rather he was an employee of the D.R.D.A. The appointment on compassionate ground cannot be given by way of right but, is an exception given in a certain circumstances provided the organization has framed rule and regulation for such purposes.



Learned counsel for the petitioner has not brought before this Court any rule and regulation pointing out that the D.R.D.A. has framed rule for compassionate appointment. He has further submitted that the petitioner should be treated to be an employee of the State Government as he has been granted first and second A.C.P. after introduction of the A.C.P. Scheme and the A.C.P. scheme can only be granted to the those who will be treated to be a government employee.

As because the employee of the D.R.D.A. has been given the A.C.P. will not give a status of employee of the State Government. Admittedly, the employee of the D.R.D.A. is not being paid the pension or the family pension. It is also a fact that wife of the deceased has not been granted the family pension and the pension is only given to those who are government servant. In that view of the matter, this Court is of the view that no case is made out for interference in the present case.

With the aforementioned reasons, this writ application is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.02.2018
Transmission Date	NA

