

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 8208 of 2015**

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Shatrudhan Yadav S/o late Indar Chowdhary, village- Shivraipur , P.S.- Bhore,  
District- Gopalganj.

.... .... Petitioner/s

Versus

1. The State of Bihar through Collector, Gopalganj.
2. The Collector , District- Gopalganj, Gopalganj,
3. The Deputy Collector, District General Section, Gopalganj Collectorate,  
Gopalganj.
4. The Circle Officer, Bhore, District- Gopalganj.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : M/s Bindhyachal Singh & Avinash Kr, Advocates

For the Respondent/s : Mr Prabhakar Jha, Advocate

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date: 28-03-2018**

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

**2** The short issue, which arises for consideration in the  
instant case, is whether the claim for compassionate appointment can  
be rejected on the ground that the claim of the adopted son is not  
supported by any evidence showing adoption by the foster parents in  
accordance with the Hindu Adoption and Maintenance Act, 1956.

**3** The reasons assigned for rejecting the claim of the  
petitioner are vague inasmuch as what is the requirement is not born  
from the impugned order dated 14.10.2011. It is clear from the  
records that the petitioner has produced registered deed of his



adoption by the foster parents including late Indar Chowdhary. The foster father of the petitioner died, while in harness, working as *Dafadar*. The petitioner has staked his claim for appointment as *Chaukidar* on compassionate grounds in view of the demise of late Indar Chowdhary, the foster father of the petitioner. By assigning such vague reasons, his claim has been rejected. It appears that the registered deed of adoption has not been considered by the authorities.

4 Mr Bindhyachal Singh appearing on behalf of the petitioner has relied upon a Division Bench judgment of this Court in the case of *Union of India & Others –Versus- Most Shitali Devi & Another*, 2002 (4) PLJR 62. He submits that the law with regard to consideration of claim for compassionate appointment by adopted heirs has been considered by the Division Bench of this Court in the said judgment, the relevant paragraph is being reproduced hereinbelow:

“ ... ..

4. The Court is of the view that this matter should not be made an issue and the logic of a regulation is not going to solve any human problem. If the employees, who are being considered, are class IV employees then regard being had to the realities it is unlikely that in that strata of the society issueless couples go through the formality of the law and make an adoption and have it duly registered. This is a common law concept. An oriental society such as ours containing an amalgam of many cultures does by practice



*and custom resort to resolving problems within the family and society, and adoption is one such modality. Indian marriages in generality do not see a registration but are conducted on custom. The case before the railway was one such circumstance. If the railway takes the posture that the strictness of the regulation must apply, then it is clear that no Class IV employees' wards may get an employment if adopted. Nobody apprehends death of an earning member so as to keep papers as a record, to be made available for such an eventuality. The eventuality is to seek employment on the rule of harness. In India amongst economically weaker sections of the society, and at times the middle class not excluded, the generality is that children are adopted and are brought up by foster parents without the rigours of a registered document. This is one such matter where a hard or fast rule or a rigid interpretation of the regulation may, perhaps provide a soul-less escape for the railway administration but it will defeat the rule of harness and not solve a problem of life for a class for whom the rule was meant. Fraud, mischief, misrepresentation may by all means be inquired, so as not to render the Rule of Harness in service nugatory. But if the relationship of adoption and foster parents be bona fide and not manufactured to defeat a regulation, such a relationship, exceptions apart as pointed out, should be accepted.*

... ..”

**5** In view of the aforesaid settled principles of law, the issue requires consideration by the authorities in light of the law declared by the Division Bench of this Court. It would be open to the petitioner to place before the authorities other contemporaneous



documents for effective consideration of his case.

6 Let the Compassionate Appointment Committee consider the petitioner’s claim in light of the law noticed above and on the basis of the documents that the petitioner may produce in accordance with law by a reasoned and speaking order within a period of three months from the date of submission of the documents by the petitioner which shall be submitted not later than four weeks from today. The Committee will take a decision without having regard to the earlier rejection of the petitioner’s claim by the impugned order dated 14.10.2011 (Annexure 4).

7 The writ petition is disposed of.

(Madhuresh Prasad, J)

M.E.H./-

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 29.03.2018 |
| Transmission Date | NA         |

