

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.850 of 2018

In
Civil Writ Jurisdiction Case No.19119 of 2008

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Jyoti Prakash, S/o Late Prahlad Paswan, Resident of Village- Prem Nagar,
P.O.- Prem Nagar, P.S.- Runnisaidpur, District- Sitamarhi.

... .. Appellant/s

Versus

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

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Amarendra Kumar Singh, Advocate
For the Respondent/s : Mr. Anjani Kumar -AAG 4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

3 18-07-2018 The petitioner-appellant is aggrieved by judgment dated 31.01.2018 passed by the learned Writ Court in Civil Writ Jurisdiction Case No. 19119 of 2008 by which the learned Writ Court has refused to interfere with the order contained in Memo No. 1164 dated 18.11.2008 rejecting the claim of the petitioner for appointment on compassionate ground.

2. While assailing the impugned judgment of the learned Writ Court, a submission has been made before us that



the father of the writ petitioner-appellant was serving in the District Rural Development Agency (hereinafter referred to as D.R.D.A.) at Sitamarhi and continued to discharge the duty on the post of Assistant-cum-Typist under the scheduled caste quota. He died on 03.03.2008 in harness leaving behind a widow and seven other dependent family members. It is the submission of learned counsel that in similar matters where an employee of D.R.D.A. died in harness, benefit of compassionate appointments have been granted by virtue of a judgment passed by the Division Bench of this Court wherein the Hon'ble Division Bench took a view that the D.R.D.A. being an agency of the State is an instrumentality of the State and thus, covered under Article 12 of the Constitution of India. Attention of this Court has been drawn towards the judgment dated 05.07.2011 passed by the Hon'ble Division Bench of this Court in L.P.A. No. 235 of 2008.

3. Learned counsel representing the State has opposed the submission of the appellant by submitting that the father of the petitioner-appellant was not absorbed in D.R.D.A. and only because the D.R.D.A. is an agency or instrumentality of the State, in the facts situation of the present case, the scheme of compassionate appointment which is otherwise applicable to



a Government Employee cannot be applied in the case of the petitioner. It is further submitted that the claim of the petitioner for appointment on compassionate ground was rejected about 11 years ago vide Annexure-1 (dated 18.11.2008) to the writ application. It is submitted that now more than 10 years have gone passed after death of the deceased employee and considering the view expressed by the Hon'ble Supreme Court wherein it has been held that the purpose of compassionate appointment is to give immediate succor to the family of the deceased employee, at this stage no direction needs to be given.

4. We have considered the submissions made at the Bar and went through the records. The reliance placed by the petitioner-appellant on the aforesaid judgment of the Hon'ble Division Bench is not of any help to the appellant because a perusal thereof shows that in the said case, admittedly, the deceased employee was permanently absorbed in the service of D.R.D.A. In the present case, admittedly, the father of the appellant was not permanently absorbed and hence, there being an apparent distinction on facts, the judgment of the Hon'ble Division Bench passed in L. P. A. No. 235 of 2008 would not be applicable. We find no reason to interfere with the impugned judgment of the learned Writ Court.



5. This Letters Patent Appeal has no merit. It is accordingly, dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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