

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2908 of 2019

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Sunil Kumar S/o Shree Bhrigunath Prasad R/o Village Motirajpur, PO
Said sarai, PS Garkha . District -Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the principal Secretary, Health Department
Government of Bihar, Patna
2. The Collector Saran Bihar
3. The Civil Surgeon cum chief Medical officer , Saran Chapra, Bihar
4. The Incharge Medical officer ,Primary health Centre, Amnaur, District Saran
Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava
For the Respondent/s : Mr. Anil Kr. Verma, AC to AAG 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 18-07-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Petitioner's claim for compassionate appointment on
account of death of his mother on 01.02.2018 while in harness
working as ANM has been rejected by the order dated
06.11.2018 pursuant to decision of the District Compassionate
Committee dated 23.10.2018. Claim has been rejected
considering that the petitioner's claim to be covered by clause 1
(Anga) of letter dated 05.10.1991 issued by Personnel and
Administrative Reforms Department. The said clause fell for
consideration earlier wherein Division Bench of this court in the
case of Jyoti Kumari vs. The State of Bihar and others reported



in 2005(4) PLJR 507 has considered the effect of the said decision of the Government in respect of claimant being family member of the deceased-employee, whose spouse at the time of his/her death in harness was alive and has already retired. Specific consideration of clause relies upon to reject petitioner's claim by the Division Bench which reads as follows:-

Para-6 “ According to the said provision, when both husband and wife are in Government employment and one dies while other remains in employment, then no benefit of compassionate appointment can be given to any of the dependents of the deceased employee. Thus, the condition precedent for non-applicability of the aforesaid provision is that at the time of death of one spouse, the other spouse is in employment. If the other spouse has already retired then the said clause, on the face of it, appears to be non-applicable.

Para-7 The view taken by the learned Single Judge in the case of **Dilip Kumar Das vs. State of Bihar**, reported in 2000(2) P.L.J.R. 203 is a correct law.

Para-8 Accordingly, the impugned order, as contained in Annexure 7 at item no. 28 is quashed and the matter is remitted to the authorities concerned to consider the question of compassionate appointment of the petitioner afresh taking into consideration the settled law, namely, whether the family of the deceased is in need of compassionate appointment or not; or it has means to survive.”

Having regard to said deceleration of the Division Bench, I find that same provision has been relied upon to reject



petition's claim. This court would therefore quash the reasons assigned in the minutes of the Compassionate committee dated 23.05.2018, in so far as rejection of petitioner's claim as being unsustainable in law.

Matter is remitted to the District Magistrate, Saran at Chapra for consideration in light of decision of the Division Bench in the case of Jyoti Kumari (supra).

Let final decision be taken expeditiously without undue delay and in the next meeting of the District Compassionate Committee after communication of this order, but in any case within three months from the date of receipt/production of a copy of this order.

Writ petition is allowed.

(Madhuresh Prasad, J)

s.hassan/-

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