

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2651 of 2016

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Santosh Kumar Son of Late Rama Shankar Mahto, Resident of Village and
P.O.- Pataliya via Narhan, P.S.- Bibhutipur, District- Samastipur.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Collector, Samastipur-cum-Chairman, District Compassionate Appointment Committee, Samastipur.
3. The Superintending Engineer, Flood Control Circle, Samastipur.
4. The Executive Engineer, Flood Control Division, Samastipur.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Mrigendra Kumar, Advocate Mr. Mayank, Advocate
For the Respondents	:	Mr. Sushant Praveen, AC to SC 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 07-03-2019 Heard learned counsel for the petitioner as well as

learned counsel for the State.

Petitioner's claim for compassionate appointment was directed to be considered afresh by this Court under order dated 3.5.2011 passed in CWJC No. 10819 of 2008. As a result of the said order, the District Compassionate Appointment Committee, Samastipur in its meeting dated 3.9.2012 recommended petitioner's claim favourably. Accordingly, he came to be appointed on a Class IV post in the establishment of the Chief Engineer, Water Resources Department, Samastipur under communication dated 10.9.2012. The petitioner joined as an



Orderly in the office of the Chief Engineer, Water Resources Department, Samastipur and is discharging his duty.

He has approached this Court with a grievance that others similarly situated, namely, Bibha Kumari, Md. Sahbaz Nizami, Shri Anil Kumar, Sri Arbind Ram and Sri Mantun Kumar have been allowed appointment on compassionate consideration against Class III post. Petitioner's claim for his appointment on Class III post has not been allowed till date.

Petitioner alleges discrimination by the authorities in the matter of grant of compassionate appointment. Writ petition was filed in 2016. Till date the Collector, Samastipur-cum-Chairman, District Compassionate Appointment Committee, Samastipur (respondent no.2) has not responded to the specific allegation of discrimination and claiming parity with the above five individuals. Averments made in the writ petition was that the case of Bibha Kumari was considered by the same District Compassionate Appointment Committee on 3.9.2012 which considered claim of the petitioner.

Due to non-filing of the counter affidavit by respondent no.2, till date this Court is not in a position to ascertain the stand of the State with respect to the petitioner's claim.



Counter affidavit filed on behalf of respondents no. 3 and 4 states that the specific claim of the petitioner seeking parity with Bibha Kumari and others is to be examined by respondent no.2 and that they are not in a position to comment on the same. Stand of the respondents no. 3 and 4 appears to be correct as the District Compassionate Appointment Committee is headed by respondent no.2.

In the circumstances stated herein above, claim of the petitioner after approaching this Court three years earlier, is incapable of a decision due to non-filing of the counter affidavit by respondent no.2.

In the circumstances, this Court would observe that respondent no.2 should take a final decision in the matter positively within a period of three months on the claim of the petitioner seeking parity with Bibha Kumari and the aforesaid individuals who have been taken note of in the instant order.

Claim of the petitioner shall be considered by respondent no.2 and if the petitioner's case is found to be at par with said individuals then the same benefit should be extended to the petitioner, if there is no other legal impediment in considering his claim. Respondent no.2 should take a final decision in the matter positively within three months from the date of



receipt/production of a copy of this order.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

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