

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4156 of 2019

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Rajeev Kumar S/o Late Suresh Kumar R/o Village- Gonawa Road, Harnaut,
P.O. and P.S.- Harnaut, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department Government of Bihar, Patna.
3. The District Magistrate Jehanabad.
4. The Chairman, District Compassionate Selection Committee-cum- District Magistrate Jehanabad.
5. The Deputy Development Commissioner Jehanabad.
6. The Additional Collector Jehanabad.
7. The Civil Surgeon Jehanabad.
8. The Deputy Collector District Establishment, Jehanabad.
9. The Assistant Commercial Taxes Commissioner Jehanabad Circle, Jehanabad.
10. The Assistant Director, Social Security Cell, (nominated SC Officer), Jehanabad.
11. The District Employment Officer Jehanabad.
12. The District Education Officer Jehanabad.
13. The Executive Engineer, Road Construction Department Jehanabad.
14. The Executive Engineer, Public Health Division Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s.Vagisha Pragya Vacaknavi
Sushmita Sharma

For the Respondent/s : Mr.Neeraj Kumar, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 08-08-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Petitioner's claim for compassionate appointment has
been rejected by District Compassionate Committee at its



meeting dated 20.12.2017. Claim of the petitioner has been negated by the authorities by assigning a reason that his sibling was in employment. Decision is based on memo dated 19.11.2014 issued by the State of Bihar in this regard. Such ground for rejection based on State Government decision dated 19.11.2014 fell for consideration before this court earlier in the case of Niraj Kumar Mallick vs. State of Bihar. Full Bench of this court has decided the issue in the decision which has been reported in 2018(2) PLJR 951. Full Bench in the said judgment has laid down parameter for consideration of claim of the dependent of the employee who died in harness where sibling was in employment.

In this connection, this court would refer to the observations of the Full Bench in para 48 of the said judgment which has been reproduced hereinbelow:-

“In terms of the clarification offered by the department, on receipt of information that other siblings of the applicant are in employment, the competent authority would be required to objectively look into the nature of the employment and the resources being generated by the employed sibling from such employment. On an objective consideration where it is found that other sibling of the applicant is gainfully employed in such an employment from which he/she is in a position and has capacity to provide



sustenance/maintenance to the other dependents, the application for appointment on compassionate ground would not fit in the scheme in terms of the clarification at Annexure “A” referred above but where it is found that the employment of the other sibling is of such a nature that it is not generating resources so as to make him able to provide both ends meet, for sustenance/maintenance to the other dependents of the deceased Government employee and despite gainful employment of one of the dependents but because of his poor income from such employment he is not in a position to provide two ends meet to the other dependents, therefore, they are on the verge of starvation, destitution and penury, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment”.

The Full Bench therefore, has observed for an enquiry on this issue in the very next paragraph.

Entire exercise which has been laid down by the Full Bench has not been carried out while considering claim of the petitioner.

In the said circumstance and having regard to the deceleration of the Full Bench Judgment, this court would remit the matter to the District Compassionate Appointment Committee, Jehanabad for consideration in light of Full Bench



Judgment.

Respondent nos.3 and 4 should ensure that claim of the petitioner is examined in light of Full Bench Judgment and decision is taken by the authority expeditiously, without undue delay and preferably within three months from the date of receipt/production of a copy of this order. It is made clear that earlier rejection of the claim of the petitioner in the meeting dated 20.12.2017 shall not stand in the way of fresh consideration.

Writ petition stands allowed.

(Madhuresh Prasad, J)

s.hassan/-

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