

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8242 of 2015

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Sumant Kumar Jha son of Late Lakhendra Jha resident of village- Naraochha
Dham, P.S. jale District Darbhanga.

... .. Petitioner

Versus

1. The State Of Bihar through Chief Secretary, Govt. of Bihar Patna
2. The Director General of Police, Bihar, Patna.
3. The Director, Welfare Department, Govt. of Bihar.
4. The Additional Director General, B.M.P. Patna.
5. The District Magistrate cum-Chairman, District Compassionate Appointment Committee, Rohtas, Sasaram
6. The Commamndendant, Bihar Military Police - 2, Delhi.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sunil Pathak
For the Respondent/s : Mr. Manoj Kumar Singh, AC to GA 9

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 31-07-2019 Heard learned Counsel for the petitioner as well as
learned State Counsel.

Petitioner's claim in the instant writ proceeding is that
the authorities should consider granting him compassionate
appointment on the post according to his merit and qualification.
In stead of joining class IV appointment offered to him by way
of compassionate appointment, he seeks appointment against
Class III post.

Father of the petitioner was working as Havildar and
died in harness on 23.7.2009. The petitioner being the only son
applied for compassionate appointment on 21.11.2012. The



claim of the petitioner was considered by the compassionate committee on 16.11.2013 and he was offered appointment against a class IV post. The petitioner did not join the said appointment offered to him. It appears that he has approached the Commandant of the Bihar Military Police (II) for recommendation afresh having regard to the fact that he acquired Intermediate qualification in 2014 after recommendation of his compassionate appointment on a class IV post in the year 2013 itself. The BMP Commandant has recommended petitioner's case for reconsideration on 28.7.2014. The issue has thereafter been considered again and claim of the petitioner has been rejected. The rejection of petitioner's claim is contained in the counter affidavit filed on behalf of respondent No. 5.

The petitioner has not assailed the said order by filing any Interlocutory Application or filing any fresh writ petition. However, he submits that perusal of minutes of the meeting of the compassionate committee, whereby claim of the petitioner has been rejected, would show that similar claim of another person, who also had earlier been recommended for class IV post, was reconsidered by the same committee. The other persons is one Pintu Kumar whose case is considered at serial no. 2.



Petitioner's Counsel submits that in the case of Pintu Kumar also the authorities directed reconsideration on account of his being Intermediate pass and on that ground he has been offered compassionate appointment on class III post. The petitioner has been discriminated against as his qualification of Intermediate pass has not been taken into consideration for giving him appointment on compassionate ground on a class III post.

The very concept of compassionate appointment is to give sustenance and succor to the family of the deceased who died in harness to tide over the crisis. The same is not as a matter of right and the petitioner would have no claim that he should be considered as per his eligibility/qualification. The claim of the petitioner cannot be considered for grant of compassionate appointment as per his choice. If the petitioner is a needy and is required to be offered appointment then he should join as per the recommendation of the compassionate committee. Even otherwise, the petitioner is not in a position to claim parity with Pintu Kumar as said Pintu Kumar was having Intermediate qualification since 2007, i.e. much prior to consideration of his case by the compassionate committee in the year 2013. The petitioner has acquired the qualification of



Intermediate after 2013. Claim of the petitioner at the time of consideration in 2013 was therefore rightly considered de hors his qualification of Intermediate and on basis of Madhyama. Addition to his qualification subsequent thereto cannot be made basis of reconsideration and granting him compassionate appointment on higher post. In effect it would amount giving him promotion in recognition of his acquiring additional qualification, subsequently.

Prayer of the petitioner is not at all tenable for compassionate appointment against class III post. Petitioner has no indefeasible right. The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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