

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.46 of 2018

In

Civil Writ Jurisdiction Case No.23192 of 2012

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Amod Kumar, Son of Late Dinanath Prasad Yadav, Resident of Village-
Sathaura, P.O.- Jhagara, P.S.- Jitana, District- East Champaran.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Collector, Madhubani.
3. The Collector Establishment, Madhubani.
4. The District Registrar, Madhubani.
5. The District Sub-Registrar, Madhubani.
6. The District Compassionate Appointment Committee, Madhubani.
7. The Principal Secretary, Personnel and Administrative Department,
Government of Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Yogesh Chandra Verma, Senior Advocate
Mr .Suresh Prasad Sharma, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 19-04-2019 Heard Shri Yogesh Chandra Verma, learned Senior

Counsel for the appellant.

After having gone through the pleadings and the
impugned judgement, we find that the issue stands squarely
covered by the Full Judgement in the case of **Niraj Kumar
Mallick Versus The State of Bihar & Ors**, reported in 2018 (2)
P.L.J.R. 951, in particular paragraph-47 which is extracted



hereinunder:-

“47. So far as the clarification that ‘gainfully employed’ means such employment from which the employed dependent of the deceased government servant may provide sustenance or can maintain other dependents is concerned, it has to be looked at ‘objectively’ and not ‘subjectively’. It is not for the authority considering the application for compassionate appointment to find out as to whether the dependent in employment is willing to take care of other dependents or not. It would not be his concern that the gainfully employed sibling is actually providing sustenance to the other dependents or not. Any argument that the dependent in employment is not willing to provide sustenance/maintenance to other dependents or that the employed one is living separately is beyond the scope and ambit of consideration under the given scheme and policy of the government and this Court sitting in its writ jurisdiction under Article 226 of the Constitution of India would not go into enquiring the correctness of the facts so pleaded before the Court. It is because the writ Court is to be conscious of the judicial pronouncements of the Hon’ble Apex Court wherein it has been repeatedly held that a Court has no power to ignore a provision to relieve what it considers a distress resulting from its operation. We have quoted paragraph 10 and 11 of the judgment of **Asha Ramchandra Ambedkar** (supra) only to remind us what the Hon’ble Apex Court has held in the following words:-



“the Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard the case may be, it should never be done”.

Accordingly, this appeal is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Partha Sarthy, J)

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