

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15466 of 2019

=====

Ajay Kumar Yadav @ Ajay Yadav S/o Late Dinesh Prasad Yadav @ Dinesh Yadav @ Dinesh Narayan Yadav Vill.- Bishanpur Jichho, P.o.- Bishanpur Jichho, P.s.- Lodipur (Sabour), Distt.- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Welfare Department, Govt. of Bihar, Patna
2. The Principal Secretary Welfare Department, Govt. of Bihar, Patna
3. The Director Welfare Department, Govt. of Bihar, Patna
4. The District Magistrate Katihar
5. The District Welfare Officer Kaithar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Pankaj Kumar Sinha, Advocate Mr. Suman Kumar, Advocate
For the Respondent/s	:	Mr. Md. Obaidullah, AC to SC 10

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 19-08-2019

Heard Mr. Pankaj Kumar Sinha, learned advocate for the petitioner and Mr. Md. Obaidullah, learned AC to SC 10.

2. The petitioner has sought a direction to the respondent authorities to appoint him any Class-IV post on compassionate ground, as his father had died working as a Chowkidar sometimes in the year 1995.

3. From the pleadings in the writ petition, it appears that after the death of the employee, an



application was filed for compassionate appointment by the elder son of the deceased employee, which was recommended also but later, aforesaid son of the deceased employee did not pursue the matter any further.

4. After about seven years in the year 2010, an application was filed by the aforesaid son of the deceased employee that in his place, his younger brother viz. the petitioner be considered for appointment.

5. Learned counsel for the State submits that the death took place in year 1995 and considering the necessity of the family to be given some help in the shape of compassionate appointment to one of the dependents of the deceased employee, the department recommended for consideration of the case of the elder son of the deceased employee. Assuming that the elder son was not capable of discharging the aforesaid responsibility, the matter should have been reported to the authorities with urgent dispatch. Not doing so and approaching the authorities only in the year 2010 and this Court of law in the year 2019 surely



gives an impression that the family was not in a desperate need of any help in the shape of compassionate appointment.

6. It is not necessary to recount the law with respect to compassionate appointment. Grant of compassionate appointment is not a mode of appointment but only a concession to the family of the deceased employee in order to bail it out from the financial distress. Such compassionate appointment has to be given only in terms of the scheme framed in the department for grant of such employment. There can be no departure from the rules as this is not the regular mode of appointment. The dominant purpose behind grant of such appointment is to alleviate the immediate difficulty of the family of the employee who died in harness, leaving the family on the brink of starvation/destitution.

7. Since the death took place in the year 1995 and the matter was not pursued despite recommendation for the elder brother of the petitioner by the department



for being considered, the case of the petitioner cannot now
be considered afresh.

8. For the aforesaid reasons, this Court finds no
merit in this petition and the same is dismissed.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.08.2019
Transmission Date	

