

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15489 of 2019

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Santosh Kumar, aged about 32 years, Son of Mahendra Thakur (Adopted Father), Late Nagendra Thakur (Actual Father), Resident of Village Ijra, P.S.- Sadar Hazipur, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Director General of Police, Bihar, Old Secretariat, Patna.
3. The D.I.G. of Police, Bhojpur Range, Arrah.
4. The S.P. Bhojpur at Arrah.
5. The D.M., Bhojpur at Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarnath Singh, Adv.

For the Respondent/s : Md. Haroon Qureshi, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 05-08-2019

A supplementary affidavit has been filed during the course of the day. Let it be taken on record.

2. Heard Mr. Amarnath Singh, learned Advocate for the petitioner and Md. Haroon Qureshi, learned AC to SC-1.

3. The petitioner is aggrieved by the fact that for



no apparent legal reason, he is not being considered for compassionate appointment in the event of death of her mother, who died in the year 2016.

4. The petitioner is the adopted son of the deceased employee. Immediately after the death of the mother of the petitioner, the petitioner applied for being considered for compassionate appointment, which application was ratified by the husband of the deceased. However, the claim of the petitioner was rejected on the ground that there was no document concerning the adoption of the petitioner by the deceased employee.

5. The petitioner had approached this Court against the aforesaid order *vide* C.W.J.C. No. 12747 of 2017, wherein this Court took note of the fact that in the absence of any statutory document confirming the factum of adoption of the petitioner, the respondents were justified in not considering the case of the petitioner for compassionate appointment. The aforesaid order was passed on 04.01.2018.

6. It has been submitted on behalf of the



petitioner that thereafter, the petitioner had filed a title suit, bearing Title Suit No. 104 of 2018, and obtained a declaration that he is the adopted son of the deceased employee, viz., late Sunaina Devi. Thereafter, armed with the aforesaid declaration by a competent Civil Court, the petitioner had preferred an application for compassionate appointment. The concerned respondent/authority took an objection that in accordance with a Circular of 1991, contained in Memo No. 13293, issued by the Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna, an adopted son is not entitled for being considered for compassionate appointment.

7. The learned counsel for the petitioner has submitted that the aforesaid Circular of the Government was superseded in view of a judgment of this Court, holding that an adopted son is to be treated no differently than the natural son and he would also be entitled for compassionate appointment. Pursuant to such a decision, the ban on consideration of the claim of an adopted son for being appointed on compassionate ground has been lifted *vide*



Circular dated 12.05.2005 issued by the Personnel and Administrative Reforms Department, Govt. of Bihar, Patna. A copy of the aforesaid letter/Circular has been brought on record by way of supplementary affidavit, which has been filed today in Court.

8. The learned counsel for the petitioner has further drawn the attention of this Court to a communication dated 09.05.2019 made by the Deputy Superintendent of Police (Reserve), Bhojpur at Ara to Public Information Officer-Cum-Superintendent of Police, Bhojpur at Ara, intimating that necessary guidelines have been sought from the Director General of Police, Bihar, Patna for considering the claim of the petitioner, who is the adopted son of the late employee. It has been submitted on behalf of the petitioner that this is only a dilatory tactics and in view of the decision of the Government to consider even the cases of adopted son for the purposes of providing compassionate appointment, there remains no necessity of seeking any guidance.

9. Be that as it may, in the event of direction



having been sought from the office of the Director General of Police, Bihar, Patna, it is expected that necessary direction be communicated to the concerned Superintendent of Police, who, on receipt of such direction, shall pass necessary order in accordance with law. The entire process ought to be completed within a period of twelve weeks from the date of receipt/production of a copy of this order before the Superintendent of Police, Bhojpur at Ara.

10. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.08.2019
Transmission Date	N/A

