

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1194 of 2019

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Daymanti Devi, Wife of Late Manik Paswan, Resident of Village-
Bakachpada, P.O.- Basudevpur, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home (Police) Government of Bihar, Patna.
2. The Inspector General (Prison) Secretariat, Government of Bihar, Patna.
3. The Additional Secretary, Department of General Administration, Government of Bihar, Patna.
4. The Chairman, District Compassionate Appointment Committee-cum-District Magistrate, Patna.
5. The Deputy Collector (Establishment), Collectorate, Patna.
6. The Superintendent of Jail, Sub Jail Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Rashid Izhar, Advocate.
For the Respondents : Mr. Md. Nadim Seraj (Gp5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 21-01-2019

Heard learned counsel for the petitioner and the State.

2. The petitioner, who is the mother of Abhishek Kumar (applicant on compassionate grounds) and wife of Late Manik Paswan, who died in harness, is aggrieved by the fact that the claim of the son of the petitioner for being appointed on compassionate ground has been rejected by order dated 12.08.2017.

3. A perusal of the order dated 12.08.2017 indicates that the claim of the son of the petitioner has been rejected on the ground that two other sons of the petitioner are employed in Government service and therefore the



benefit of compassionate appointment could not have been given to another son of the petitioner.

4. Learned counsel appearing for the petitioner has submitted that the application of the petitioner before the District Magistrate, Patna clearly indicated that even though two sons of the deceased employee were employed in Government service, but right from the beginning, they had severed all their connection with the family; so much so that they had not even participated in the last rites of the deceased employee. The petitioner (the widow of the deceased employee) has been left completely without anything to fend for herself and it was under such circumstances that she supported the cause of another son for being appointed on compassionate ground.

5. Learned counsel appearing for the petitioner has drawn the attention of this Court to the circular/resolution issued by the General Administration Department of the State of Bihar with respect to the appointment on compassionate ground.

6. It has clearly been laid down in the aforesaid resolution that in case of death of a Government servant, his heir/dependent would not be accorded the benefit of compassionate appointment, if anyone in the family is in Government service. The resolution further indicates and explains that even if those heirs being in Government service are not residing with the applicant such benefit would not be



extended to him. However, what has been lost sight of by the District Magistrate, Patna in his capacity as Chairman of the District Compassionate Consideration Committee is that word "gainful employment" has further been explained/expatiated in the circular which *inter alia* means that the aforesaid concession of compassionate appointment has to be extended in such a manner that the heirs are looked after and are in a position to overcome the sudden disruption of income to the family so as to prevent any vagrancy or destitution.

7. Mr. Rashid Izhar, learned advocate for the petitioner has drawn the attention of this Court to the fact that such aspect of the matter was completely lost sight of/ignored by the Committee which rejected the application of the son of the petitioner.

8. True it is that compassionate appointment is an emergent and a beneficent measure to provide immediate solace/succour to the family of the deceased, but the rules regarding the compassionate appointment have too well been enunciated for being noted down in the present order. There cannot be any compassionate appointment in derogation of the rules made in that regard. Times without number, the Supreme Court as well as this Court has held that compassionate appointment is, in a way, a departure from the regular course of employment and cannot be countenanced in case of absence of any rule governing such



employment. In the present case, the Committee which was beset with deciding the claim of the petitioner, did not at all consider the fact that the two sons of the deceased employee, for all practical purposes had abandoned the family and there was no link/chord available with them so as to ensure that the widow of the deceased could overcome such difficult times arising out of the death of her husband, the only earning member of the family.

9. Under such circumstances, the applicant viz. the son of the petitioner is directed to file a fresh representation before the District Magistrate, Patna within a period of four weeks from today. On receipt of the aforesaid application, the District Magistrate, Patna shall cause such application to be kept for consideration before the Committee meant for deciding the applications with respect to compassionate appointment. A fresh call shall be taken by the Committee and a reasoned order shall be passed within a period of eight weeks after receiving the representation of the petitioner.

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

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.01.2019
Transmission Date	

