

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.307 of 2017

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1. Abhishek Kumar Tiwari, S/O Late Akhilendra Tiwari, R/O Village- Bareja, P.S. - Daudpur, District – Saran (Bihar).
 2. Binda Ray, S/O Late Janak Prasad, R/O Samhoutha, P.S. - Kopa, District – Saran.
 3. Sidhesh Raj Bhar @ Sidesh Ray Bhar, S/O- Late Dharm Deo Ray, R/O Village – Harpur, Kotwa, P.S. - MH Nagar, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Law Secretary, Govt. of Bihar, Old Secretariat, Bihar, Patna
2. The District and Sessions Judge, Siwan.
3. The Registrar, Administration, High Court, Patna.

... .. Respondent/s

Appearance :

For the Petitioners	: Mr.Awadhesh Kumar Mishra, Advocate Mr. Ajay Kumar
For the High Court	: Mr. Bindhyachal Singh, Advocate Ms. Smriti Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 02-01-2019

Heard learned counsel for the petitioners and the State.

2. The petitioners have raised a grievance that their claim for being appointed on compassionate ground because of the death of their respective fathers have wrongly and arbitrarily been rejected on the ground of a circular of 2016 being in existence, restricting the number of compassionate appointment to be not more than 3% of the strength of the service under the Class-IV grade.

3. Learned counsel for the petitioners has drawn the attention of this Court to a judgment delivered in LPA No. 2390 of 2016, wherein a division bench of this Court



found that the circular referred to above could not have been made applicable to the cases of such persons, where death had occurred before the issuance of circular of 2016 restricting/limiting the compassionate appointment to 3% of the entire cadre. The division bench in the aforesaid case was of the view that the decision of the single judge of this Court rejecting the claim of the petitioners therein was in teeth of the law settled in the case of **Canara Bank and another Versus M. Mahesh Kumar** [(2015) 7 SCC 412].

4. Learned counsel appearing for the High Court has also stated that this case be disposed off in terms of the order passed in LPA No. 2390 of 2016 referred to above.

5. The present writ petition is thus disposed off by remanding the matter to the High Court for reconsideration of the case of the petitioners within a period of three months from the date of receipt/production of a copy of this order.

(Ashutosh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2019
Transmission Date	

