

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19141 of 2019

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1. Gauri Shankar, S/o- Ashok Kumar Paswan, resident of - Baghi, Post- Suhird, Nagar, Baghi, District- Begusarai, Pin Code- 851218, presently posted as Class - IV in the office of District Programme Office, ICDS, Sitamarhi.
 2. Rajeev Kumar Chaudhari, S/o- Raj Kuamr Chaudhari, resident of Mohalla- Indira Nagar, Ward No. 18, Bhavdepur, District- Sitamarhi, present posted as Class - IV employee at Primary Health Center, Barghania.
 3. Sanjiv Kumar, S/o- Vinod Kumar, resident of - Ward No. 2, Punaura, PS.- Punaura, District- Sitamarhi, Pin Code- 843302, present posted as Class- IV employee in District TB Center, Sitamarhi.
 4. Santosh Kumar Singh, S/o- Turan Prasad Singh, resident of Rajopatti, Ward No. 12, Dumra, P.O- Rajopatti, District- Sitamarhi, Pin Code- 843301, presently posted as Class- IV employee at Primary Health Center in Sup.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Principal, Secretary Health Department, Govt. of Bihar, Patna.
4. The District Magistrate, District- Sitamarhi.
5. The Civil Surgeon-cum-Chief Medical Officer, Sitamarhi, District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Singh, Advocate
For the Respondent/s	:	Mr.Ajay Bihari Sinha (GA-8)
		Mr. Suryakant Kumar, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 05-11-2019 Heard learned counsel for the parties.

2. This writ application has been filed seeking direction for appointment of these petitioners against Class-III post. They have been appointed against Class-IV post on compassionate ground, they being the dependents of the



deceased employees who died in harness. It is the case of the petitioners that they hold the qualification of Intermediate, which is the requisite qualification for appointment against Class-III post and, therefore, their cases for appointment on compassionate ground should have been considered for Class-III posts in place of Class-IV posts.

3. Learned counsel appearing on behalf of the petitioners has submitted that the petitioners have been denied appointment against Class-III post mainly on the ground that they did not have any knowledge/ expertise in operating computers. It has also been submitted that in similar circumstance some other persons, who were initially appointed against Class-IV post on compassionate ground, have been appointed against Class-III posts as they were holding the requisite qualification of Intermediate.

4. The object of giving appointment on compassionate ground is to give succor to the family which suddenly clings into penury due to untimely death of its sole breadwinner. It has been time and again held by the Supreme Court that appointment on compassionate basis is an exception to the general rule of appointment on a civil post in conformity with the requirements of Articles 14 and 16 of the Constitution of



India. It has been held by the Supreme Court in case of ***Union Bank of India & Ors. vs. M.T. Latheesh*** reported in **(2006) 7 SCC 350** that even possession of relevant qualification does not create any right to an applicant to a post. The scheme of appointment on compassionate ground is limited to allow preferential treatment subject to the discretion of the employer.

5. Mr. Ajay Bihari Sinha, learned counsel appearing on behalf of the State-Respondents has rightly placed reliance on a Division Bench decision of this Court dated 10.04.2017 rendered in L.P.A. No. 419 of 2016 (Sanjay Kumar Dass vs. The State of Bihar & Ors.) to contend that the petitioners cannot claim by way of right to be appointed against Class-III post on compassionate ground after having already been appointed against Class-IV post. The said decision reads thus :-

“The petitioner after the death of his father, who died in harness, was granted compassionate appointment in a class-4 post. He accepted the appointment, started work and thereafter claimed appointment in a class-3 post, on the ground that the Committee which considered his case and recommended for his appointment in a class-3 post. However, finding that he has already accepted the appointment in a class-4 post did not object, when the appointment was offered to him and taking note of the



circular of the State Government, bearing No. 2067 of 1990 KA 13293 dated 05.10.1991, which prohibited change of category, after accepting a compassionate appointment, the learned writ court has dismissed the writ petition, holding that compassionate appointment is an appointment dehorse the statutory rule of recruitment and, therefore, once appointment in a class-4 post was accepted, in the absence of change of category being permanent and once the change of category is specially prohibited by the Government Circular, writ court dismissed the writ petition.

In our considered view, in doing so, in the facts and circumstances of the case, the learned writ court has not committed any error, warranting re-consideration.

The appeal is, therefore, dismissed.”

6. I do not find any merit in this application, which is accordingly dismissed.

(Chakradhari Sharan Singh, J)

Rajesh/-

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