

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3398 of 2018

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Alok Kumar S/o late Umesh Mishra Resident of Village- Raja Bazar, Near
Ram Janki Mandir, P.O. P.S.-Motihari Town,District- East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Department of General Administration,
Govt. of Bihar, Patna
2. The District Compassionate Appointment Committee, East Champaran
represented through the District Magistrate, East Champaran, Motihari.
3. The District Magistrate, East Champaran, Motihari.
4. The Sub-Divisional Officer, East Champaran, Motihari.
5. The Civil Surgeon-Cum-Chief Medical Officer, East Champaran, Motihari.
6. The Incharge Medical Officer, Additional Primary Health Center, Semra,
Block- Turkauliya, District- East Champaran,

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shri Prakash Srivastava
For the Respondent/s : Mr.Md. Nadeem Seraj- GP5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-05-2019 Matter has been listed today in the summer

vacations as learned counsel for the petitioner was desirous

for consideration of his case during vacation.

The slip for listing was filed pursuant to notice
dated 08th May, 2019, published prior to the vacation.

The matter is, accordingly, taken up for
consideration as both parties are present and willing to
assist the court for disposal of the matter.

Heard counsel for the petitioner and counsel for
the respondents.



After some arguments, Mr. Srivastava, counsel for the petitioner refers the judgment of Full Bench in the case of Niraj Kumar Mallick vs. State of Bihar reported in 2018(2) PLJR 951. Full Bench in the said judgment has laid down manner of consideration of claim for compassionate appointment in the circumstances where one of the brothers is already in employment.

Since petitioner's case has also been rejected on the basis of notification dated 10.05.2010 which has been taken note by Full Bench in the case of Niraj Kumar Mallick (supra), it is submitted that the authority be directed to consider the petitioner's claim as per parameter laid down in para 48 of the said judgment.

As the said Full Bench Judgment has come after filing of writ proceedings, parties are in agreement that issue requires consideration in terms of para 48 of judgment of Full Bench which has been reproduced hereinbelow:-

“In terms of the clarification offered by the department, on receipt of information that other siblings of the applicant are in employment, the competent authority would be required to objectively look into the nature of the employment and the resources being generated by the employed sibling from such employment. On an objective



consideration where it is found that other sibling of the applicant is gainfully employed in such an employment from which he/she is in a position and has capacity to provide sustenance/maintenance to the other dependents, the application for appointment on compassionate ground would not fit in the scheme in terms of the clarification at Annexure “A” referred above but where it is found that the employment of the other sibling is of such a nature that it is not generating resources so as to make him able to provide both ends meet, for sustenance/maintenance to the other dependents of the deceased Government employee and despite gainful employment of one of the dependents but because of his poor income from such employment he is not in a position to provide two ends meet to the other dependents, therefore, they are on the verge of starvation, destitution and penury, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment”.

Counsel for the petitioner further submits that case of the petitioner stands on better footing as in the said case, petitioner's brother is in government service whereas admittedly, brother of the petitioner in this case is in private sector.



Be that as it may, consideration has to be made by respondent no.3 in light of Full Bench Judgment taken note of hereinabove. Respondent no.3 should consider and dispose off the case of the petitioner expeditiously and without undue delay preferably in the next meeting of the District Compassionate Appointment Committee, East Champaran after communication of this order.

Writ petition is disposed off.

(Madhuresh Prasad, J)

s.hassan/-

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