

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1060 of 2018

In

Civil Writ Jurisdiction Case No.12552 of 2011

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Rakesh Kumar Son of Late Ajay Kumar Srivastava, resident of Village Post
P.S.- Kurhani, District- Muzaffarpur, PIN 844120.

... .. Appellant/s

Versus

1. The State of Bihar
2. The District Magistrate, Muzaffarpur.
3. The Deputy Collector Establishment, District- Muzaffarpur.
4. The Joint Registrar, Co-operative Committee, Tirhut Pramandal,
Muzaffarpur.
5. Circle Officer, Kurhni Turnk, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Md.Imteyaz Ahmad, Advocate Mr. Arya Achint, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar Verma- AAG-3 Mr. Saroj Kumar Sharma, AC to A.A.G. - 3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 04-11-2019

Heard Mr. Ajay Kumar Thakur, learned counsel for
the appellant and Mr. Saroj Kumar Sharma, learned AC to
A.A.G.-3.

The issue which has fallen for consideration in this
appeal is whether the employer, while deciding the case of the
appellant for granting compassionate appointment, has given



due consideration to the fact that one of the siblings has sufficient income by way of employment to maintain the appellant.

It has been submitted on behalf of the appellant that his prayer in the writ petition was rejected on the ground that a Full Bench judgement of this Court in ***Niraj Kumar Mallick Versus The State of Bihar & Ors. reported in 2018 (2) PLJR 951*** has clarified that gainful employment of one of the siblings of the applicant seeking compassionate appointment is to be taken into account in an objective manner so that the employer gets to know whether the employed sibling generates sufficient income out of the employment to maintain the family of the applicant for compassionate appointment.

A look at the decision of the committee regarding the claim of the appellant for being appointed does not reflect any such consideration. The decision dated 19.08.2010 of the Compassionate Appointment Committee of which the District Magistrate, Muzaffarpur was the Chairman, does not reflect any such consideration and the claim of the appellant has been rejected only on the ground that one of his brothers is employed with the government.



It is the case of the appellant that his brother, who is in employment, is a Panchayat Teacher who gets a monthly emolument of Rs. 4,000/-. This amount even though is very meagre for meeting the requirements of the family, but no such consideration at all has been given by the authority concerned on this aspect while rejecting the claim of the appellant.

This aspect of the matter has also not been dealt with by the learned Single Judge and the writ petition has been dismissed only on the ground that no averments have been made by the appellant / writ petitioner that the income generated by his brother was insufficient to maintain him as well.

Shri Thakur, learned counsel for the appellant submits that an assessment regarding claim of the applicant seeking compassionate appointment per force requires the authorities to look into the aforesaid aspect. If the appointment of a sibling in government service is being taken as an impediment for the original writ petitioner to be considered for compassionate appointment, the Compassionate Appointment



Committee ought to look at this aforementioned aspect of the matter.

For the aforesaid reasons, we set aside the order passed by the learned Single Judge dated 03.07.2018 and direct the Compassionate Appointment Committee, Muzaffarpur to look into the case of the appellant afresh and pass an order in accordance with law and what has been stated above, within a period of eight weeks from the date of production/communication of a copy of this order.

The appeal stands allowed to the extent indicated above.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

skm/Krishna

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	06.11.2019
Transmission Date	

