

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14290 of 2019

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Jitendra Kumar S/o Late Constable Sumendra Singh Vill.- Sakri, P.O.- Sakri
Chowk, P.S. and Distt.- Arwal

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home (Police)
Department, Bihar, Patna
2. The Director General of Police Bihar, Patna
3. The Addl. Director General of Police Special Branch, Bihar, Patna
4. The Superintendent of Police Special Branch, Bihar, Patna
5. The District Magistrate Arwal
6. The Anchal Adhikari Arwal, P.S. and Distt.- Arwal

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sidhendra Narayan Singh
For the Respondent/s : Mr.Md. N. H. Khan (Sc1)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

- 4 23-03-2021 1. The present writ petition has been filed for quashing the order dated 24.05.2019 contained in Annexure-14 to the writ petition, issued by the Superintendent of Police, Special Branch, Bihar, Patna, whereby and whereunder the case of the petitioner for appointment on compassionate ground has been rejected on the ground that his second brother namely Harendra Kumar is already in government job and is gainfully employed in C.R.P.F.
2. The brief facts of the case are that the father of the petitioner was appointed in District Force of Darbhanga on



28.09.1981 and subsequently, he died in harness on 25.05.2014 due to Heart Attack. Thereafter, the petitioner appears to have applied for grant of compassionate appointment but his claim was rejected, whereupon he filed a writ petition bearing C.W.J.C. no. 2015 of 2019, which was disposed of by an order dated 06.02.2019, with liberty to the petitioner to make a fresh representation before the Superintendent of Police, Special Branch, Patna along with a copy of the inquiry report, enclosing a copy of the said order of this Hon'ble Court, whereupon the Superintendent of Police, Special Branch, Patna was directed to dispose of the same in accordance with law. The petitioner had then filed his detailed representation dated 18.02.2019, enclosing the inquiry report, however the case of the petitioner for grant of compassionate appointment has been rejected by the impugned order dated 24.05.2019 on the ground that the petitioner is not entitled for grant of appointment on compassionate ground, inasmuch as his brother is gainfully employed in C.R.P.F.

3. The learned counsel for the petitioner has referred to a judgment rendered by a Full Bench of this Court, reported in **2018(2) PLJR 951 (Niraj Kumar Mallick & Others v. The State of Bihar through Secretary, Rural Works Department,**



Government of Bihar, Patna & Others), paragraph no. 48

whereof, is reproduced hereinbelow :-

“48. 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.”

The learned counsel for the petitioner has submitted that the learned Full Bench of this Court has categorically held that in cases, 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 servant, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground.

4. In this regard, the learned counsel for the petitioner has referred to the inquiry report dated 22.03.2019 (Annexure 13 to the writ petition) and has submitted that the said report would show that the day to day expenses of the family of the



petitioner is being meted out by the meagre pension of the mother of the petitioner amounting to a sum of Rs. 26,000/-. It is thus submitted that since the brother of the petitioner, who is gainfully employed and is not taking care of the family, the petitioner is liable to be granted appointment on compassionate ground by the respondent-authorities, in view of the Full Bench judgment of this Court, referred to hereinabove.

5. *Per contra*, the learned counsel for the respondent-State has not disputed the position, as is existing in law.

6. Having regard to the facts and circumstances of the case and considering the fact that the learned Full Bench of this Court, in a judgment rendered in the case of **Niraj Kumar Mallick & ors. (supra)**, has held that in cases, where employment of other sibling is of such a nature that he is not providing sustenance to the other dependents of the deceased government employee, the respondent-authorities are bound to consider the application of other dependents for appointment on compassionate ground and for that purpose, the competent authority is required to objectively look into the nature of the employment and the resources being generated by the employed sibling from such employment. In such view of the matter, this Court finds that the impugned order dated 24.05.2019, passed



by the Superintendent of Police, Special Branch, Bihar, Patna, whereby and whereunder the case of the petitioner for grant of employment on compassionate ground has been rejected, merely on the ground that his brother is working in C.R.P.F., is contrary to the law laid down by the learned Full Bench of this Court in the case of *Niraj Kumar Mallick & ors. (supra)*, hence is unsustainable in the eyes of law, thus is quashed. The matter is remanded back to the Superintendent of Police, Special Branch, Patna to conduct an inquiry in terms of paragraph no. 48 of the judgment rendered by the learned Full Bench of this Court in the case of *Niraj Kumar Mallick & ors. (supra)* and thereafter, take a decision with regard to the case of the petitioner for appointment on compassionate ground. This Court further directs that the entire exercise, as aforesaid, should be completed within a period of six weeks from the date of receipt/production of a copy of this order.

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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