

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 16785 of 2017

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Dhirendra Kumar Rai, son of Late Shiv Ji Rai, Resident of Village-
Kharawana, Posat Office- Karath, Police Station- Tarari, District Bhojpur, At
present- Dhirendra Kumar Rai, son of Late Shiv Ji Rai, Mohalla- Sankat
Mochan Nagar, New Police Line, Ara, District Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Criminal Investigation Department,
Bihar, Patna.
3. The Deputy Inspector General of Police, Criminal Investigation
Department of Bihar, Patna.
4. The Superintendent of Police (C), Criminal Investigation Department,
Bihar, Patna.
5. The Deputy Superintendent of Police, Incharge of Criminal Investigation
Department, Ara, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. P. K. Sahi, Sr. Adv.

Mr. Ajay Kumar Singh, Adv.

Mr. Satyendra Narayan Verma, Adv.

For the Respondents : Mr. Anil Kumar, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 29-06-2021

The present petition has been taken up for consideration
through the mode of Video conferencing in view of the
prevailing sit



unt of COVID 19 Pandemic,

requiring social distancing.

2. The present writ petition has been filed for quashing the order dated 7.4.2017 passed by the Superintendent of Police (C), Crime Investigation Department, Bihar, Patna whereby and where-under the claim of the petitioner for grant of appointment on compassionate ground has been rejected, on the ground that the brother of the petitioner is gainfully employed in Government service, in as much as the rules bar grant of the benefit of compassionate appointment to any other family member, in case one family member is employed in government service.

3. The brief facts of the case are that the father of the petitioner died in harness on 1.8.2016, while working as Sub-Inspector of Police, whereafter the petitioner had applied for appointment on compassionate ground vide his application dated 19.12.2016, however, the same has been rejected by the impugned order dated 7.4.2017, merely on the ground that his brother is employed in government service.

4. The learned Senior counsel for the petitioner, Shri P. K. Sahi, has referred to a judgment rendered by a Full Bench of this Court, reported in *2018 (2) PLJC 951 (Niraj Kumar Mallick & O*

te of Bihar through Secretary,



**Rural Works Department Government of Bihar, Patna and
& Ors.), paragraph-48 whereof is reproduced herein below:-**

“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 th



on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment.”

5. The learned Senior counsel for the petitioner has also referred to a judgment dated 23.3.2021 passed by this Court in C.W.J.C. No. 14290 of 2019 (**Jitendra Kumar Vs. The State of Bihar**), paragraphs No. 4 to 7 whereof are reproduced herein below:-

"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. 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 the 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."

6. The learned Senior Counsel for the petitioner has further referred to a report dated 26.02.2017, submitted by the Sub-Inspector of Police, Crime Investigation Department, Bhojpur, to submit that upon enquiry it has transpired that the financial condition of the widow mother of the petitioner is precarious, hence has recommended for grant of compassionate appointment to the petitioner.

7. Per contra, the learned counsel for the State Shri Anil Kumar, AC to SC-8, has not disputed the position, as is existing in law, especially in view of the judgment rendered by a Full Bench of this Court in the case of **Niraj Kumar Mallick** (Supra).

8. 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 o

nber 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 family member from such employment.

9. In such view of the matter, this Court finds that the impugned order dated 7.4.2017, passed by the Superintendent of Police (C), Crime Investigation Department, 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 in government service, 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.

10. The matter is remanded back to the Superintendent of Police (C), Crime Investigation Department, Government of Bihar, Patna, to consider the case of the petitioner afresh in light of the Full Bench judgment of this Court rendered in the case of **Niraj Kumar Mallick & ors.** (supra) as also in view of the enquiry report

7 of the Sub-Inspector of Police,



Crime Investigation Department, Bhojpur, which can be found at Pg. No. 49 of the writ petition, and take a fresh decision with regard to the case of the petitioner for grant of 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.

11. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	26.07.2021
Transmission Date	N/A

