

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21521 of 2018

Md. Mazharul Haque S/o Md. Farooque, Resident of Village Lal Tole
Kolhatle, P.S. Amaur, District- Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector cum District Magistrate, Purnea.
3. The Compassionate Appointment Committee headed by Collector Cum District Magistrate, Purnea.
4. The Senior Addl. Collector, General Admin Deptt., Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. N. Mishra, Adv
For the Respondent/s	:	Md. N.H.Khan -SC-1
		Ms. Babita Kumari, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 18-07-2022 Heard learned counsel for the petitioner and learned
State counsel.

The fact of the dispute is that within the time frame specified under the Chowkidari Cadre Rules 2006 as amended by 2014 amendment (hereinafter referred as ‘2006, Rules’), the petitioner had made an application for appointment by way of nomination of his son in his place.

The petitioner’s claim for appointment of his son, however, has been rejected under a general notice dated 10.07.2018 by assigning the following reason:

18	मो० फारुक	मो० मजहरुल हक	ग्रा०-लाल टोली,	इस मामले में पाया गया कि आवेदन
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			पो०+थाना अमौर, अंचल - अमौर, जिला-पूर्णिया	दाखिल करने की तिथि- 24.05.2017 एवं स्वैच्छिक सेवानिवृत्ति की इच्छित तिथि-30.06. 2017 तक उनके नामित पुत्र द्वारा शैक्षणिक योग्यता संबंधी अहर्ता पूरा नहीं करते हैं। अतएव गृह आरक्षी विभाग, बिहार सरकार के पत्रांक - 5444, दिनांक-22.06.2018 की कंडिका 4 में निहित प्रावधान के आलोक में इनका दावा स्वीकार योग्य नहीं है।
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The 2006 Rules provides an opportunity to a chowkidar to seek voluntary retirement and to nominate a dependent for appointment in his place subject to the statutory prescription regarding making of applications and requisite educational qualification of the dependent etc.

The petitioner's counsel submits that the requisite educational qualification had been acquired by the time the Committee considered the pending claim of various applicants, including the petitioner. It is further submitted that this is a benevolent scheme and in view of the fact that petitioner's son, who is the intended beneficiary acquired the qualification prior



to consideration by the Committee, the petitioner's claim ought not to have been rejected.

Rule 5(2) of the 2006 Rules provides that for appointment on the post of chowkidar, the minimum educational qualification is 10th Pass (Matriculate). While making provision for appointment of a nominee/dependent of a chowkidar, the Rule does not in any way relax the requirement of minimum educational qualification. Therefore the nominee/dependent is required to be qualified in all respects, including educational qualification.

There is no factual dispute that the petitioner's son was not possessing the requisite educational qualification for appointment, either on the date of nomination, or till the date of petitioner's voluntary retirement.

Considering the rival submissions, this Court would observe that the fact that petitioner's son acquired qualification after his retirement, even though before consideration, cannot help the petitioner's case. The requirement of educational qualification cannot be extended till such time the claim for appointment is considered. The submission regarding benevolence is also misplaced as appointment in question is under the 2006 Rules and can only be availed, subject to



fulfilling the statutory requirements, including requisite educational qualification, and in accordance with the procedure prescribed in the 2006 Rules.

Since the petitioner's son was admittedly not possessing the requisite educational qualification on date of application, or even till the petitioner's voluntary retirement date, he could not have been nominated, and had no right to be considered or to be appointed as chowkidar.

There is no merit in the case and the same is dismissed.

(Madhuresh Prasad, J)

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