

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18155 of 2014

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Bhola Prasad Singh son of Late Sudama Singh Father and Mostt. Lilawati Kuer Mother resident of Village - Narbirpur, Panchayat - Narbipur, Police Station alias Thana - Koelwar Now Chandi, Proposed Block - Narbipur, P.O. - Narhi Chandi, District - Bhojpur Arrah Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Minor Irrigation Department, Government of Bihar, Patna, Respondent no.3.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Minor Irrigation Department, Government of Bihar, Patna.
4. The Principal Secretary, Personnel and Administration Reforms Department, Government of Bihar, Patna
5. The Upper Secretary to Government of Personnel and Administrative Reforms Department, Government of
6. The Collector cum the President, Appointment of Compassionate Committee Bhojpur Arrah.
7. The Deputy Collector Establishment, Bhojpur, Arrah.
8. The Superintending Engineer, Minor Irrigation Division, Arrah.
9. The Executive Engineer, Minor Irrigation Division, Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harendra Pratap Singh, Adv.
For the Respondent/s : Mr. Ravi Kumar, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

3 14-12-2022

1. Heard the parties.

2. The issue involved in the present writ petition is no more *res integra* in view of the judgment passed by the Division Bench in the case of **Dilip Kumar Bhattacharya Vs. State of Bihar reported in 2004 (4) PLJR 889**, wherein it has been held that even the dependents of a work charged employee



would be entitled for the similar benefit of compassionate appointment as has been allowed to other employees of the Government of Bihar. The petitioner has been denied consideration for appointment on compassionate ground solely on the ground that his father was working on work charged basis. It would be appropriate to quote the judgment passed by the Division Bench:-

“14. Law is well settled that if the employees fall in two different classes, then they can be classified and that will be followed for the purpose of scale, promotion and other benefits and that will not be hit by quality clause of Articles 14 and 16 of the Constitution of India. It is equally well settled that the Government has power to provide the facilities of compassionate appointment to the employees and deny the claim of other class of employees if the policy is valid and not in breach of equality clause. Equality clause operates into every act, of the State and the State cannot make deviation with regard to compassionate appointment on whimsical ground. Once the employees are made permanent, they fall in one category. The fact that they came from different source does not make any difference and once a permanent employee dies whether he was appointed by regular procedure or by regularisation and made permanent, which is also one of the mode of making an employee permanent, the sufferings will be-the same. All employees whatever were the source of their recruitment fall in one category so far appointment on compassionate ground is concerned. If an



employee dies in harness leaving his family in financial crisis, then the benefit should be given to the dependents of all such employees irrespective of their mode of being made permanent. Distinction made by the State Government by letter dated 27.12.2002 is arbitrary and unjust. The classification has been made without any reasonable differentia. There is no reason to make distinction as that would not serve the purpose for which compassionate appointment has been provided.”

3. Keeping in view as above, the decision dated 14.06.2004 rejecting the claim of the petitioner for compassionate appointment is set aside. The respondents are now directed to consider the case of the petitioner and offer compassionate appointment to him. The question of overage on account of pendency of the petition shall be overlooked for the purpose.

4. The writ petition is accordingly allowed.

(Sanjeev Prakash Sharma, J)

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