

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3185 of 2018

=====

Bharat Vishal, Son of Late Inju Kumari and Rajkishore Sinha, Resident of Mohalla-Ashok Nagar Road No. 3, "Vishal Sadan" Kankarbagh, Patna, P.O.-Lohia Nagar, P.S.-Kankarbagh, District-Patna.

... .. Petitioner/s

Versus

1. The Bihar Vidhan Sabha Patna through its Secretary, Bihar Vidhan Sabha, Patna
2. The Secretary, Bihar Vidhan Sabha, Patna.
3. The Under Secretary, Bihar, Vidhan Sabha, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Nagendra Kumar Singh, Adv
For the Respondent/s	:	Mr. Kaushal Kumar Singh, Adv
		Mr. Abhishek Kumatr Singh, Adv

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 15-11-2022

Writ application has been filed for the following
reliefs:

(i) For the issuance of an appropriate writ in the nature of certiorari for quashing the order dated 24th August 2017 contained in Memo No. 1-Estb.-13/17-6700/V.S. Patna issued under signature of Sri Dina Nath Prasad the Under Secretary, Bihar Vidhan Sabha, Patna Annexure-6 by which and whereunder the application dated 29.03.2014 filed the petitioner for appointment on the post of Lower Division Clerk on compassionate ground after the death of mother who was working as head typist in Bihar Vidhan Sabha Patna has been



rejected on the plea that father and mother of the petitioner were in Govt. Service and he has sound economical condition.

And

For quashing the order contained in Memo No. 1-East-109/17-9183/V.S. Patna dated 08.11.2017 issued under signature of Sri Dina Nath Prasad the Under Secretary, Bihar Vidhan Sabha, Patna Annexure-8 by which and whereunder the further representation dated 30.08.2017 filed by the petitioner has also been rejected.

(ii) For further direction to the respondents to appoint the petitioner on the post of Lower Division Clerk on compassionate ground in terms of direction issued by the General Administrative Department, Govt. of Bihar contained in Letter No. 9/Bibidh-14-01/2011/Sa. Pra. 4300 dated 10.04.2017 Annexure-9 wherein it is clearly mentioned that the dependents of such Govt. servant who have died while in service can be considered for the appointment on compassionate basis against 75% post of direct recruitment quota.

2. The learned counsel for the Vidhan Sabha has failed to show from the impugned order that there is any consideration of the financial condition of the petitioner by assigning any reasons whatsoever.



3. That being the fact, reliance placed by the petitioner on the Judgment of Division Bench of this Court passed in the case of *Jyoti Kumari vs. The State of Bihar & Ors.* reported in **2005 (4) PLJR 507** is coming to aid of the petitioner's submission in so far as the legal unsustainability of the impugned order is concerned.

4. The same is clearly unsustainable as it lacks any consideration whatsoever of the petitioner's family's financial condition during consideration and rejection of his claim for grant of compassionate appointment, is thus unsustainable.

5. Merely by using of expression "सम्यक विचारोपरांत" (after due consideration), the claim has been rejected.

6. Learned counsel for the petitioner submits that the petitioner would be approaching the authority giving details of financial condition within two weeks.

7. If the petitioner approaches respondent No. 2 with such details, then the same is required to be considered by a reasoned and speaking order having regard to the law laid down by the Division Bench, in the case of *Jyoti Kumari* (supra). The petitioner's claim should be considered expeditiously, without any delay and preferably within three months from the date of submission of the application.



8. While considering the petitioner's claim, this Court would hold that the earlier order of rejection of his claim for compassionate appointment under order dated 24.08.2017 shall not stand in the way.

9. The writ application stands allowed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.12.2022.
Transmission Date	N/A

