

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10635 of 2020

Manoj Kumar, S/o Sri Rajendra Prasad, R/o Village- Sima, P.S. Silao, Distt.-
Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Government of Bihar, Patna.
2. The Civil Surgeon Cum Chief Medical Officer, Nawada.
3. The Divisional Commissioner, Magadh Division, Gaya.
4. The Collector Cum Chairman, Compassionate Committee, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jai Prakash Verma, Advocate
For the Respondent/s : Mr. Ajay Behari Sinha, GA-13

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 25-01-2022

This matter is heard via video conferencing due to
circumstances prevailing on account of COVID-19 Pandemic.

2. Heard learned counsel for the parties.

3. In the instant petition, the petitioner has prayed for the
following reliefs:

“That, this is an application for issuance of an
appropriate writ/writs, order/orders and
direction/directions, in the nature of certiorari for
quashing of aggrieved portion of order passed by the
Collector, Nawada (Respondent no.4 herein) so far it
relates to petitioner is concerned, whereby and where
under claim of the petitioner for appointment on
compassionate ground in place of his wife has been
rejected by the District Compassionate committee
presided in chairmanship of the Collector dated
23.12.2019 on the ground that at the time of



application itself i.e. before date of death of father of the petitioner although it should be wife of the petitioner, the petitioner had cross the upper age limit of appointment as prescribed by the state government. Further a writ in the nature of mandamus may issue commanding and directing to the respondent authority to relax the age limit for appointment of the petitioner on compassionate ground on class iii post and consider his case a fresh for his appointment on compassionate ground in place of his wife Late Mamta Kumari who died in harness on 23.4.2016 during her service period while posted as A.N.M. in Primary Health Centre, Kauakole, Distt- Nawada leaving behind her husband namely Manoj Kumar (petitioner herein), and one son namely Abhinash Bharti and one daughter namely Anjali Bharti and for the other necessary releif/reliefs for which the petitioner is entitled to in accordance with law.”

4. The petitioner’s claim for compassionate appointment is rejected with reference to age criteria.

5. Perusal of the scheme for compassionate appointment vide Annexure-8, it is evident from para 6(B), which is relating to relaxation of upper age limit. Para 6 (B) read as follows:

B. RELAXATIONS

(a) Upper age limit could be relaxed wherever found to be necessary. The lower age limit should, however, in no case be relaxed below 18 years of age.

Note I Age eligibility shall be determined with reference to the date of application and not the date of appointment.



Note II Authority competent to take a final decision for making compassionate appointment in a case shall be competent to grant relaxation of upper age limit also for making such appointment.

(b) Secretary in the Ministry/Department concerned is competent to relax temporarily educational qualifications as prescribed in the relevant recruitment rules in the case of appointment at the lowest level e.g. Group 'D' or Lower Division Clerk post, in exceptional circumstances where the condition of the family is very hard provided there is no vacancy meant for compassionate appointment in a post for which the dependent family member in question is educationally qualified. Such relaxation will be permitted upto a period of two years beyond which no relaxation of educational qualifications will be admissible and the services of the person concerned, if still unqualified, are liable to be terminated.

Note In the case of an attached/subordinate office, the Secretary in the concerned administrative Ministry/Department shall be the competent authority for this purpose.

(c) In the matter of exemption from the requirement of passing the typing test those appointed on compassionate grounds to the post of Lower Division Clerk will be governed by the general orders issued in this regard:-

(I) by the CS Division of the Department of Personnel and Training if the post is included in the Central Secretariat Clerical Service; or

(ii) by the Establishment Division of the Department of Personnel and Training if the post is not included in the Central Secretariat Clerical Service.



(d) Where a widow is appointed on compassionate ground to Group ‘D’ post, she will be exempted from the requirement of possessing the educational qualifications prescribed in the relevant rules provided the duties of the post can be satisfactorily performed by her without possessing such educational qualifications.”

The aforesaid clause has not been taken note of before rejecting the petitioner’s claim for compassionate appointment. Therefore, the concerned authority is hereby directed to revisit in respect of petitioner’s grievance relating to compassionate appointment after due consideration of the aforesaid clause to the scheme for compassionate appointment and proceed to pass speaking order and communicate the same to the petitioner as to whether the petitioner is entitled to relaxation of upper age limit for compassionate appointment or not?

6. The above exercise must be completed by the competent authority within a period of two months from the date of receipt of a copy of this order.

7. The petition stands disposed of.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.02.2022
Transmission Date	NA

