

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1030 of 2021

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Amit Kumar Son of Late Shambhu Ram Resident of Village- Loribandh,
Police Station- Karakat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer Irrigation Creation, Water Resources Department, Gaya.
4. The Superintending Engineer Irrigation Circle, Water Resources Department, Gaya.
5. The Executive Engineer Irrigation Division, Water Resources Department, Gaya.
6. The District Magistrate cum Chairman District Compassionate Appointment Committee, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha 3
For the Respondent/s : Mr. Rewti Kant Suman, AC to SC-11

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 27-09-2022 Heard learned counsel for the petitioner and
learned State counsel.

2. Hard copy of the rejoinder is being taken on record.

3. By communication dated 19.01.2019, the
petitioner's claim for compassionate appointment on the ground
of death of his father in harness on 19.01.2016, while working
as a Grade-IV employee, Irrigation Division, Gaya, has been
rejected.

4. It is submitted by the petitioner's counsel that the



rejection suffers from two infirmities. The first submission is that rejection is not by the competent authority as consideration is required to be done by the District Compassionate Committee, whereas the rejection is by the Chief Engineer of Irrigation and Water Resources Department. The second submission is that the reason assigned for rejection is employment of the petitioner's sibling in the Central Reserve Police Force, which also is unsustainable to reject the petitioner's claim. Specific reliance is placed on decision of Full Bench in the case of *Niraj Kumar Mallick vs. the State of Bihar & Ors.* reported in *(2018) 2 PLJR 951* specifically paragraphs 48 and 49 thereof. The Full Bench has held that the fact of sibling being in employment *per se* cannot be made the basis for rejecting the claim for compassionate appointment and the authority is required to examine whether the employment generates sufficient income for sustaining the dependents of the deceased.

5. Learned State counsel submits that the rejection is in accordance with departmental instruction which has been quoted in the order itself.

6. However, with respect to the petitioner's specific assertion that rejection is not by the competent authority, there is



no denial or dispute in the counter-affidavit on this point.

7. Considering the rival submissions, this Court would observe that the rejection of petitioner's claim for compassionate appointment under communication dated 19.01.2019 is unsustainable as the same is not done by the competent authority but also without examining the petitioner's claim on the parameters laid down by the Full Bench in the case of **Niraj Kumar Mallick** (supra). The order dated 19.01.2019 is quashed.

8. For enabling consideration of the petitioner's claim, the petitioner is allowed liberty to submit details in respect of income generated by employment of his sibling *vis-a-vis* the dependents of the deceased employee so as to facilitate consideration as per parameters laid down in the case of **Niraj Kumar Mallick** (supra) within four weeks before the respondent no. 6.

9. The writ application is allowed to the extent indicated above

(Madhuresh Prasad, J)

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