

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10208 of 2022

=====

Kamaljeet Bhatta Son of Late Madan Bhatta, Resident of Village-Gaudar,
P.S.-Shahpur, District-Bhojpur, Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Building Construction Department, Bihar, Patna.
2. The Secretary, Building Construction Department, Bihar, Patna.
3. The Electrical Executive Engineer, Electric Works Division, Darbhanga, Building Construction Department.
4. The Collector, Darbhanga.
5. The Deputy Collector (Estd), Collectorate, Darbhanga.
6. The District Compassionate Committee through its Chairman.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr P K Shahi, Sr Advocate with Mr Mukesh Kumar, Advocate
For the Respondent/s	:	Mr Uday Shankar Sharan Singh, GP XIX

=====

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 12-08-2022

Heard learned senior counsel for the petitioner, who has appeared through Virtual Mode and the learned State Counsel.

2 The petitioner's claim for compassionate appointment has been rejected in the proceedings of the District Compassionate Appointment Committee dated 30.09.2019 on consideration that petitioner's sibling is in employment.

3 Learned senior counsel for the petitioner would submit that, employment of petitioner's sibling being the sole criterion,



the rejection is unsustainable. Reliance is placed on decision of Full Bench of this Court in the case of *Niraj Kumar Mallick -Versus- State of Bihar & Others*, since reported in 2018 (2) PLJR 951, relevant extracts of which are at Paragraphs 48 and 49 which reads as follows:

“48. In terms of the clarification offered by the department, on receipt of information that other siblings of the applicant are in employment, the competent authority would be required to objectively look into the nature of the employment and the resources being generated by the employed sibling from such employment. On an objective consideration where it is found that other sibling of the applicant is gainfully employed in such an employment from which he/she is in a position and has capacity to provide sustenance/maintenance to the other dependents, the application for appointment on compassionate ground would not fit in the scheme in terms of the clarification at Annexure-“A” referred above but where it is found that the employment of the other sibling is of such a nature that it is not generating resources so as to make him able to provide both ends meet, for sustenance/maintenance to the other dependents of the deceased Government employee and despite gainful employment of one of the dependents but because of his poor income from such employment he is not in a position to provide two ends meet to the other dependents, therefore, they are on the verge of starvation, destitution and penury, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment.

*49. In my opinion, the Division Bench judgment of this Court in the case of **Vishal Kumar (supra)** followed by learned Writ Court in the case of **Mahabir Paswan (supra)** and **Jay Prakash***



*Choudhary (supra) are laying down the correct law. In none of these writ applications, the petitioners have pleaded that their other siblings are in such an employment by which they are unable to get sufficient money so as to provide the both ends meet to these petitioners, therefore, we find no error in the impugned order rejecting the application of the petitioner (s) on the ground that their other siblings are in employment. I would, therefore, approve the judgment dated 22.08.2016 passed by the learned Single Judge in **CWJC No 10236 of 2013** which has followed the judgment of the Hon'ble Division Bench in the case of **Vishal Kumar (supra)**."*

4 From perusal of the judgment of the Full Bench, it is apparent that the authorities are obliged to take into consideration whether the income of the sibling is sufficient to sustain the dependents of the deceased who died in harness. Such assessment not having been made, this Court would observe that the District Magistrate -cum- Collector, Darbhanga (Respondent No 4) should ensure such consideration in the petitioner's case. To facilitate such consideration, the petitioner should place on record before the District Magistrate -cum- Collector, Darbhanga (Respondent No 4), the details in support of his claim.

5 Let the consideration be done by Respondent No 4 ignoring the earlier decision of the District Compassionate Appointment Committee dated 30.09.2019 in so far as the petitioner is concerned by reasoned and speaking order having regard to the mandate of the Full Bench, taken note of above.



6 This Court would direct that the entire exercise be completed within three months from the date of receipt/production of a copy of this order.

7 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.09.2022
Transmission Date	NA

