

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16164 of 2021

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Indrajeet Sah, Son of Late Sachidanand Sah, Resident of Village- Barabharna,
P.S.- Bihra, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Public Health Engineering Department,
Government of Bihar, Patna.
3. The Under Secretary, Public Health Engineering Department, Government
of Bihar, Patna.
4. The Officer on Special Duty, Public Health Engineering Department,
Government of Bihar, Patna.
5. The Executive Engineer, Public Health Division, Gopalganj.
6. The District Magistrate cum Chairman, District Compassionate Committee,
Gopalganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satish Chandra Jha- 3, Advocate
For the Respondent/s : Mr.Arvind Ujjwal, S.C.-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 01-07-2022 It is the petitioner's case that the petitioner's

father, namely, Sachidanand Sah, died in harness while

working as Nalkup (Tube-well) Khalasi in the Public Health

Engineering Department, Gopalganj on 20.07.2017.

Petitioner being son has applied for compassionate

appointment. The District Compassionate Committee in its

meeting dated 27.07.2019 has rejected the petitioner's claim

relying upon an affidavit filed by the petitioner's brother that

he is employed as Block Teacher.



Mr. Satish Chandra Jha No.3, counsel appearing for the petitioner submits that the brother of the petitioner though working as a Block Teacher is living separately and has not been looking after the needs of the other dependants of the deceased employee who died in harness. He further submits, relying upon the Full Bench decision in the case of ***Niraj Kumar Mallick vs. State of Bihar, reported in 2018(2) PLJR 951***, that in view of the fact that one of the dependants was employed, the authority was required in terms of the Full Bench decision to examine whether the economical status of the family, including the employment of the sibling was such as to be considered sufficient to maintain the other dependant, irrespective of the fact that the sibling was residing together or not. He submits that this exercise has not been done.

Learned State Counsel, on the other hand, submits that the Compassionate Committee has relied upon the affidavit of the petitioner's brother that he is gainfully employed.

Considering the rival submissions and the settled legal position based on decision of the Full Bench in the case of ***Niraj Kumar Mallick (supra)***, this Court is left with no



option but to conclude that such enquiry as contemplated in the case of *Niraj Kumar Mallick's* decision was required to be done in respect of the petitioner's case also.

The petitioner's counsel submits that he would be placing the details of the income of his brother and other details before the District Magistrate, Gopalganj (Respondent No.6) so as to enable assessment of the financial status of the petitioner's family arising out of employment of his brother to enable the authorities to take a final decision within the parameters of law laid down in the case of *Niraj Kumar Mallick*(supra).

In view of such submission, no adjudication is called for in the instant proceedings. The matter therefore is disposed of with liberty to the petitioner to submit his claim, claiming benefit as contemplated in the decision of *Niraj Kumar Mallick* (supra) within a period of three weeks. The authorities would be under a legal obligation to deal with the matter expeditiously in view of the urgent nature of consideration contemplated in the matter of compassionate appointment. Let the exercise be completed within eight weeks thereafter.

The decision of the Compassionate Committee



dated dated 27.07.2019 in so far as the petitioner is concerned, is therefore quashed. The matter is remitted to the authority to undertake exercise on the petitioner's representation.

The writ application is allowed with the aforesaid observations.

(Madhuresh Prasad, J)

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