

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11861 of 2022

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Suraj Kumar Son of Late Ramswarup Paswan, Resident of - Village and Post-
Painal, P.S.- Bihta, District- Patna, Bihar, PIN- 800111

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna, Bihar.
2. The District Magistrate cum Collector, Patna.
3. The District Level Compassionate Committee, through its Chairman, Patna.
4. The Additional Collector, Patna.
5. The Deputy Collector (Establishment), Patna.
6. The Circle Officer, Bihta, Patna.
7. The Station House Officer, Police Station- Bihta District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Amit Pandey, Advocate
For the Respondent/s : Mr Ruchikar Jha, AC to SC VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 08-09-2022

Heard learned counsel for the petitioner and the respondents.

2 The petitioner's claim for compassionate appointment, on account of demise of his father while in harness on 17.09.2021 as Chaukidar, Circle Office, Bihta, has been rejected by the District Compassionate Appointment Committee in its Meeting dated 25.04.2022 on the ground that sibling is gainfully employed.



3 Petitioner's counsel submits that the fact of sibling being in employment per se is insufficient to disqualify or disentitle the petitioner in view of 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 This Court, having considered the mandate in the case of *Niraj Kumar Mallick (supra)*, would find that the authorities, in terms of the Full Bench decision, are required to consider whether employment of the sibling is sufficient to maintain the dependents of deceased, which exercise apparently has not been taken. There is no expression of any consideration in terms of the decision of the Full Bench of this Court in the case of *Niraj Kumar Mallick (supra)* in the Minutes of the Meeting of 25.04.2022 of the District Compassionate Appointment Committee, Patna.

5 For such consideration, the matter is remanded back to the District Compassionate Appointment Committee. The District Magistrate, having regard to the claim for compassionate appointment, should reconsider the petitioner's claim without



being affected by rejection of the claim in the Meeting dated 25.04.2022.

6 To facilitate such consideration, the petitioner would be obliged to place on record before the District Magistrate the details.

7 If such details are placed before the District Magistrate within two weeks from today, the same shall be considered expeditiously, preferably at the next meeting of the District Compassionate Appointment Committee which, in any case, should be within three months thereafter.

8 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.10.2022
Transmission Date	NA

