

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16291 of 2017

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Md. Naeem, Son of Late Md. Abdul Hassan, Resident of Village-Lalmia
Dargah, P.O. and P.S.- Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Home Department, Government of Bihar, Patna.
2. The Commandant , Bihar Military Police -14, Patna.
3. The Collector Cum District Magistrate Cum Chairman, District Compassionate Appointment Samiti, Patna.
4. The Deputy Collector, Establishment, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vikash Kumar Jha, Advocate
For the Respondent/s : Ms. Babita Kumari, AC to SC-01

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-09-2022

The petitioner's claim for compassionate appointment has been rejected at the meeting of the District Compassionate Appointment Committee, as per communication dated 20th February, 2016. The rejection is on the ground of sibling's employment in Government service and relying upon the General Administration Department letter dated 19.11.2014.

2. The petitioner's counsel submits that the fact of sibling being in employment *per se* is insufficient to arrive at a conclusion regarding the rejection of petitioner's claim for compassionate appointment. He placed specific reliance on paragraphs 48 and 49 of the judgment of the Full Bench of this



Court in the case of *Niraj Kumar Mallick vs. State of Bihar*,

reported in *2018(2) PLJR 951*, which read 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 22.8.2016 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).”

3. Learned State Counsel submits that in view of the communication dated 19.11.2014, the District Compassionate Appointment Committee has taken a decision since the petitioner's brother is gainfully employed in Government service.

4. Considering the rival submissions, having regard to the law as declared by the Full Bench of this Court in the case of the *Niraj Kumar Mallick*(supra), the decision of the District Compassionate Appointment Committee dated 24.02.2015 in so far the petitioner is concerned, is quashed. Matter is remanded to the District Magistrate, Patna (Respondent No.3) to reconsider the petitioner's claim in light of the Full Bench judgment.

5. The petitioner would be at liberty to place the details before Respondent No.3 along with a copy of this order regarding the income of the sibling to show whether it is sufficient to take care of the remaining dependents or not.

6. In case the details are submitted before the Respondent No.3 within four weeks, Respondent No.3 would be



obliged to consider the petitioner's case, in accordance with law,
by a reasoned and speaking order within eight weeks thereafter.

7. The writ petition is allowed.

(Madhuresh Prasad, J)

PNM

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	
Transmission Date	N.A.

