

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1108 of 2020

Chandan Kumar Singh, aged about- 34 years, (Male), Son of late Anil Kumar Singh,
Resident of Village + Post- Harail, P.S. Mohiuddin Nagar, District- Samastipur,
Bihar, Pin No. - 848501

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Home, Bihar, Patna.
2. The Principal Secretary, Home, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The District Magistrate, Jamui.
5. The Superintendent of Police, Jamui.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Anuj Kumar with Mr. Arun Kumar Prasad, Advocates
For the State	:	Mr. Mankeshwar Tiwari, AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 16-11-2022 Heard learned counsel for the petitioner as well as learned
counsel for the State.

2. This matter has been listed under the heading “TO BE
MENTIONED”

3. The learned counsel for the petitioner has filed a
mentioning slip for listing of this matter for disposal in terms of
order dated 26.08.2022, passed in ***C.W.J.C. No. 8149 of 2018***
(Sittu Kumar vs. The State of Bihar & Ors.). The mentioning
slip contains an endorsement of consent by learned counsel for
the State.

4. The Petitioner’s claim for compassionate appointment
on account of death of his father in harness while working as



Assistant Sub-Inspector of Police, on 06.11.2018, has been rejected under communication dated 06.04.2020, as contained in Annexure- A to the counter affidavit, which is issued by the office of Superintendent of Police, Jamui.

5. Parties are in agreement that the matter may be disposed of in terms of decision of this Court in C.W.J.C. No. 8149 of 2018, dated 26.08.2022.

6. Since the Authorities, while rejecting the petitioner's application, has not examined whether his siblings income is sufficient to sustain the dependents of the deceased, who died in harness, the instant writ application, therefore, is disposed of on the same terms as C.W.J.C. No. 8149 of 2018, relevant extract of which reads as follows:-

*“3.Learned senior counsel for the petitioner would submit that, 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 v. the 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, Begusarai (Respondent No 2) 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, Begusarai (Respondent No 2), the details in support of his claim.

5.Let the consideration be done by Respondent No 2 ignoring the earlier decision of the District Compassionate Appointment Committee dated 24.03.2017 in so far as the petitioner is concerned, by a 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. Accordingly, writ petition is disposed of with a direction to consider petitioners claim in terms of decision quoted above, ignoring the earlier decision dated 06.04.2020.

(Madhuresh Prasad, J)

Raj kishore/-

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