

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.323 of 2023

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Munni Devi W/O - Late Mahendra Kumar R/o- Village/Mohalla - Manglagouri, Post-Chand Choura, P.S.- Vishnupad, District - Gaya, State - Bihar, PIN - 823001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, of Rural Engineering Work, Department, Government of Bihar, Patna.
2. The Chairman of District Compassionate Committee, Gaya, through the Collector Gaya.
3. The District Establishment office of Addl. collector, Gaya.
4. The Executive Engineer, Ruler Engineering Work, Department, Sub-Divisional office, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Jha, Advocate
For the Respondent/s : Mr. Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 17-04-2023 Heard learned counsel for the petitioner and the State.

Petitioner in the present case is seeking the following

reliefs:-

“(i) For issuance of an appropriate writ and order or direction in the nature of ‘Mandamus’ directing and commanding the concern respondent to set aside the impugned decision dated 25.09.2021 (Annexure-21) taken by the Chairman of Compassionate committee, Gaya in concerned with the petitioner by which the application for compassionate appointment has been rejected without considering the fact and circumstances of the claim of petitioner.

(ii) For issuance of an appropriate writ and order or



direction in the nature of 'Mandamus' directing and commanding the concern respondent to appoint the petitioner on suitable post under compassionate scheme in view of Govt. Decision as the father in law of the petitioner Late Gopal Prasad has died in harness on the post of peon in Ruler Engineering Department, posted at Sub-Divisional office Gaya, on 12.01.2011, and thereafter husband of the petitioner has died on 13.11.2016 when the application for compassionate appointment of husband of petitioner was pending in the office of Establishment Addl. Collector, Gaya.

(iii) For issuance of any other relief or reliefs to which the petitioner found entitled to.”

Learned counsel for the petitioner submits that the petitioner is the widow of one Mahendra Kumar. The said Mahendra Kumar was elder son of late Gopal Prasad. Late Gopal Prasad was a government employee working on the post of Peon in the office of Rural Engineering Works Department, Motihari. He died in harness on 12.01.2011, whereafter the husband of the petitioner submitted an application in the concerned office for his appointment on compassionate ground.

Earlier after noticing the submissions of learned counsel for the petitioner on 28.02.2023, this Court passed the following order:-

“This writ application has been filed questioning the



decision of the District Compassionate Appointment Committee held on 25.09.2021 under the Chairmanship of District Magistrate, Gaya.

By the impugned order the request of the petitioner for consideration of her name for compassionate appointment has been rejected on the solitary ground that she had applied for such appointment after 10 years 6 months from the date of death of the employee in harness.

Learned counsel for the petitioner has placed before this court a copy of letter no. 76/Estb. Dated 23.01.2017 addressed to Executive Engineer, Rural Engineering Organization, Gaya from which it appears that this petitioner had informed the District Establishment Committee about the murder of her husband Mahendra Kumar on 13.11.2016. It was the said Mahendra Kumar who being the eldest son of Late Gopal Prasad (the employee in harness) had applied for appointment on compassionate ground in the year 2013 and his application was pending consideration since 03.10.2013.

Learned counsel submits that the reasons shown in the impugned decision of the District Establishment Committee is completely wrong. The Committee has not looked into the records and has rejected the case of the petitioner on a completely wrong ground.

Learned counsel for the State prays for some time to seek instruction and file a counter affidavit.

This Court grants him six weeks time to file a comprehensive counter affidavit.

In the meantime, the District Magistrate, Gaya shall examine the records and in case it is found that what



has been submitted on the basis of letter no. 76 dated 23.01.2017 (Annexure '10') is correct, he will be obliged to convene a meeting of the District Establishment Compassionate Appointment Committee to take a fresh decision and apprise this Court with the action taken at his end.

List this matter after six weeks i.e. 12.04.2023 under the same heading maintaining it's position.”

A counter affidavit has been filed on behalf of the respondents. It is stated that after death of Gopal Prasad the husband of the petitioner submitted an application for his appointment on compassionate ground but in the meantime one of the minor daughters of the deceased employee namely Lakshmi Priya submitted an application enclosing therewith the copy of the F.I.R. before the Executive Engineer, Rural Works Department, Works Division-2, Gaya. She alleged that her brothers have murdered her mother and father for which Makhdumpur P.S. Case No.12 of 2011 has been instituted. She claimed the death -cum-terminal benefits of her father. The daughter of the deceased employee had also submitted an application on 09.05.2011 before the District Magistrate, Gaya.

Learned counsel for the State submits that admittedly the husband of this petitioner was an accused in the murder case of his father and mother, therefore, he would not have been



entitled for consideration for appointment on compassionate ground. Learned counsel further submits that the government employee died in the year 2011, 12 years have gone thereafter, therefore, more than a considerable period has elapsed. Citing the judgment of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal Vs. State of Haryana and others** reported in **(1994) 4 SCC 138**, learned counsel submits that the appointment on compassionate ground is not a valid mode of appointment but is allowed only to provide a succor to the family of deceased government employee who dies in harness. In this case, there is no pleading much less any material to show that the dependents of the deceased employee were living in a state of penury, therefore, the very purpose of giving the compassionate appointment is not existing in the present case.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that 12 years after death of the deceased government servant, in the facts of the present case where the husband of the petitioner was admittedly an accused in the murder case of his father and mother, no direction need be issued for consideration of the case of the petitioner on compassionate ground. In the case of **Umesh Kumar Nagpal** (supra), the Hon'ble Supreme Court has



in paragraph '6' categorically held as under:-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

This writ application has, thus, no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

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