

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3579 of 2020

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Rahul Kumar Son of Sri Kameshwar Prasad Resident of Mohalla- Bypass
Road Ashok Bihar Colony, PS- Bisnupad, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Commissioner, Magadh Division, Gaya.
3. The District Compassionate Committee through its Chairman, District
Magistrate, Gaya.
4. The District Magistrate, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dinu Kumar, Advocate Ms.Ritika Rani, Advocate
For the Respondent/s	:	Mr. Kumaresh Singh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-07-2023

1. Heard learned counsel for the petitioner and
learned State counsel.

2. The petitioner is aggrieved by rejection of his claim
for compassionate appointment by the District Compassionate
Committee in its meeting dated 27-11-2017.

3. The learned counsel for the petitioner submits that
taking into consideration the fact that the petitioner's elder
brother is gainfully employed on contract basis in the UAE, the
petitioner's claim has been rejected, placing reliance on the
decision dated 10-05-2010 bearing letter No. 1781 issued by the
General Administration Department. He submits that the same



has been subject to consideration by a full bench of this Court in the case of *Niraj Kumar Mallick vs. the State of Bihar & Ors.* passed in (2018) 2 PLJR 951. Relying on the declaration of law in this judgment as to how the case is to be considered in case of a sibling being gainfully employed, it is submitted that the consideration is not in accordance with the judgment in the case of *Niraj Kumar Mallick* (supra).

4. The learned State counsel submits that from the order of the District Compassionate Committee, it is obvious that a sibling is gainfully employed and, therefore, the petitioner's claim for a compassionate appointment has rightly been rejected.

5. On consideration of the rival submissions, this Court finds that decision in the case of *Niraj Kumar Mallick* (supra) is clear in its mandate as to the manner in which claim for compassionate appointment of a person, whose sibling is gainfully employed, is required to be considered. The mere factum of sibling being employed *per se* is not sufficient for deciding the claim. The authorities are required to look into the issue whether the nature of employment is sufficient so as to enable the sibling to take care of the legal heirs/dependents. There is no consideration of this aspect in the meeting of the



District Compassionate Committee.

6. Further submission on behalf of the petitioner made by the learned counsel is that the fact of being gainfully employed abroad hardly helps the other dependents. It is an issue which is also required to be considered by the Court. He further submits that as of today, the sibling has lost the said employment.

7. Be that as it may, the Court would not express any opinion on these facts that are to be considered by the District Compassionate Committee in accordance with the decision of this Court in the case of *Niraj Kumar Mallick* (supra).

8. For facilitating such consideration, the proceedings of the District Compassionate Committee dated 27-11-2017, insofar as the petitioner is concerned, are quashed. The matter is remitted to the District Compassionate Committee.

9. The petitioner would be at liberty to submit an application placing on record the current state of affairs regarding employment of siblings for effective consideration.

10. The authorities would be at liberty to examine the case in accordance with law.

11. This application is allowed.

12. If the application is filed within four weeks, the



authorities would be required to consider the claim within three months.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2023.
Transmission Date	NA

