

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2098 of 2023

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Sandeep Kumar Son of Late Bibhuti Mandal Resident of Village- Post Officer- Baski Chak, Police Station- Dumka Mufasil, District- Dumka, Pin Code- 814119.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Secretary, Minority Welfare Department, Government of Bihar, Patna.
4. The Managing Director, Bihar State Minority Finance Corporation Limited (Bihar Rajya Alpsankhyak Vitt Nigam Limited), 34, Harding Road, Ali Imam Path, Patna- 800001.
5. The In-Charge (Establishment), Bihar State Minority Finance Corporation Limited (Bihar Rajya Alpsankhyak Vitt Nigam Limited), 34, Harding Road, Ali Imam Path, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gopal Govind Mishra, Advocate Mr. Sharwan Kumar, Advocate
For the State	:	Mr. Umesh Kumar Roy, AC to GP-11
For the Respondent no.5&5:	:	Mr.Ravish Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 12-04-2023 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar State Minority Finance Corporation Limited (hereinafter referred to as ‘the Corporation’).

Petitioner in the present case is seeking a direction in the nature of a writ of mandamus commanding the respondents to consider his case for appointment against Grade-III or Grade-IV posts in the Corporation.

It is the case of the petitioner that his father late



Bibhuti Mandal was working as driver in the service of the Corporation, he died in harness on 03.09.2020 whereafter the petitioner submitted his application for appointment on compassionate ground on 23.07.2021 and 04.08.2021 before the Managing Director of the Corporation.

Learned counsel for the petitioner submits that the representation of the petitioner for appointment on compassionate ground is still pending before the competent authority. It is stated in paragraph '11' of the writ application that one Asgari Khatoon has been appointed by the Managing Director of the Corporation on compassionate ground. The grievance of the petitioner is that the respondent authorities are not considering the case of the petitioner even as the appointment has been made on compassionate ground. Learned counsel submits that the Corporation being a 100% government company is guided by the government's decision and policies in the matter of appointment and it has adopted the rules made by the government in this regard.

On the other hand, Mr. Ravish Chandra, learned counsel for the Corporation submits that difficulty with the Corporation is that all the permanent posts have been abolished and those have been made contractual and need based posts.



Learned counsel submits that the State Cabinet has taken a decision on 08.04.2020 by which all 13 sanctioned posts of the respondent Corporation has been surrendered and 78 new need based posts have been created. It is stated that the source of recruitment against these posts is also mentioned in the decision of the government as communicated vide memo no.979 dated 09.06.2020 (Annexure 'R4/1' to the counter affidavit).

It is stated with reference to the statements made in paragraph '11' of the counter affidavit that the Corporation is ready to give sympathetic treatment to the writ petitioner in future if contractual engagement is made on class IV posts on the need basis.

Having heard learned counsel for the petitioner and learned counsel for the Corporation as also the State and upon perusal of the records particularly Annexure- 'R4/1' of the counter affidavit of the Corporation, this Court finds that the Corporation has been incorporated as a government company. The Public Enterprises Bureau (Finance Department), Government of Bihar created 19 posts of different categories. The table contained in Annexure- 'R4/1' shows that there were two sanctioned posts of driver. It is not disputed that the father of the petitioner was working as driver in the Corporation and



he died in harness.

It further appears from Annexure- 'R4/1' that in the Cabinet Meeting held on 08.04.2020 it was decided to carry on a reform in the administrative structure of the Corporation at the headquarter level. With this object, 19 posts which were created earlier were surrendered and 78 need based posts have been created in 13 categories. There are 14 posts of peons and two posts of drivers in the total 78 need based posts.

Since the counter affidavit specifically states that the petitioner would be considered in future if contractual engagement is made on class IV posts, this Court directs that in case any class IV post such as post of peon is either vacant or fell vacant and the same is required to be filled up by the Corporation, the case of the petitioner shall be considered for the same and an appropriate decision shall be taken keeping in view that the Corporation has offered appointment on compassionate ground earlier and it is not the case of the Corporation that the policy of the government towards compassionate appointment is not applicable in the Corporation. Such decision shall be taken irrespective of the fact that in Annexure- 'R4/1' the source of appointment against 12 posts of peon has been shown as "Non Working निगम से प्रतिनियुक्ति के



आधार पर.”

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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