

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4246 of 2023

Chandan Kumar Son of Late Panchdev Hazra @ Panchdev Paswan, Resident of Ward No. 11, Barohiya, P.S.- Chanpatia, District- West Champaran.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Bihar, Patna.
2. The Home Secretary, Home (Police) Department, Bihar, Patna.
3. The Under Secretary, Home (Police) Department, Bihar, Patna.
4. The District Magistrate, West Champaran at Bettiah.
5. The In-Charge Officer, District General Section, West Champaran at Bettiah.
6. The Superintendent of Police, West Champaran at Bettiah.
7. The Anchal Adhikari, Circle- Chanpatia, West Champaran.
8. The Officer-in-Charge, Chanpatia Police Station, West Champaran.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Jainendra Kumar Pushkar, Advocate Mr.Dilip Kr. Tiwari, Advocate
For the Respondent/s	:	Mr.Suman Kumar Jha, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 26-04-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner, in the present case, is seeking a direction to the respondent authorities to appoint him on the post of Chowkidar in place of his father on compassionate ground.

3. It is stated that the father of the petitioner Late Panchdev Hazra @ Panchdev Paswan was working as Chowkidar under Chanpatia Police Station, Circle - Chanpatia in the district of West Champaran. He died in harness on 12.10.2009 leaving behind his wife Mostt. Krishnabati Devi and



two minor sons including this petitioner.

4. It is submitted that since at the time of death of his father the petitioner and his brother were minor as such the mother of the petitioner did not make any request for appointment of any of her sons. Later on she made a request to the authorities to appoint her younger brother-in-law (younger brother of her husband) on the post of Chowkidar. This application was made in the year 2013, but the appointment was not made.

5. It is stated that the petitioner who is the youngest son became major whereupon on 21.08.2020 the mother of the petitioner filed a representation before the District Magistrate, West Champaran for his appointment on compassionate ground.

6. Learned counsel for the petitioner is unable to say as to what is the age of the elder son of the deceased and when did this petitioner attain majority.

7. Learned counsel for the petitioner submits that the elder son of the petitioner is not interested in service. It is however not disclosed in the writ application as to whether the elder son is engaged in any other job or not.

8. On the other hand, learned counsel for the State has opposed this writ application. It is submitted that the purpose of



appointment on compassionate ground is to give immediate succor to the family of the deceased government employee who died in harness. Referring to the judgment of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal Vs. State of Haryana** reported in (1994) 4 SCC 138. Learned counsel submits that the Hon'ble Supreme Court has held that appointment on compassionate ground is not a mode of recruitment in consonance with Article 14 and 16 of the Constitution of India and in fact it is an appointment through back door method.

9. Learned counsel, therefore, submits that at this stage when the father of the petitioner died in the year 2009 i.e. about 14 years ago and no application was made for appointment on compassionate ground immediately by the elder brother of the petitioner on attaining his majority, this mode of appointment cannot be allowed to remain open for the petitioner in the year 2020.

10. Having heard learned counsel for the petitioner and the State as also on perusal of the records, this Court finds substance in the submission of learned counsel for the State. Admittedly, the deceased government servant died in this case in the year 2009. The date of attaining majority of the elder son



of the deceased government employee has not been disclosed in the writ application. There is no categorical statement regarding his employment though in a completely vague words in paragraph '17'. It is stated that no one is employed in the family. Keeping in view the purpose of appointment on compassionate ground, in the light of the judgment of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal** (supra), this Court is of the opinion that no case for issuance of a writ of mandamus is made out. This Court sitting in its extraordinary writ jurisdiction is not inclined to grant discretionary relief to the petitioner.

11. This Writ Application is dismissed.

(Rajeev Ranjan Prasad, J.)

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