

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16791 of 2015

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Krishna Kumar Hari S/o Abha Hari, resident of village/ Mohalla- Gurhatta
Chaunk, Jarlahi, P.S. Mojahidpur, District- Bhagalpur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Urban Development Department, Bihar at Patna.
2. The Municipal Commissioner, Bhagalpur Nagar Nigam, Bhagalpur
3. The Chief Executive Officer, Bhagalpur Nagar Nigam, Bhagalpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Saroj Kumar Sharma, Adv.
For the State : Mr. Dimpal Kumari, AC to GP-11
For the Corporation : Mr. Manish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 01-09-2023

The present writ petition has been filed seeking the following relief:-

“1. That this application is directed for issuance of a writ in the nature of mandamus or such other writ-writs, order/orders direction/directions to the respondent authority to make compassionate appointment of the petitioner in place of his mother namely Ratni Mehtarani who has been died in harness on 14.11.2004 and petitioner being son of deceased employee has applied for his appointment on



compassionate ground but till date no action has been taken by the authority concern and / or pass such other order / orders as your lordships may deem fit and proper in the facts and circumstances of the case.”

2. At the outset, the learned counsel for the Respondent-State has relied on a Circular dated 5.10.1991, issued by the State Government, regarding the scheme of compassionate employment, to submit that in case, any of the dependent of the deceased employee is employed in Government service, no legal heir of such a deceased employee would be entitled to compassionate appointment. The Ld. Counsel for the Respondent-State has also referred to the aforesaid Circular dated 5.10.91, issued by the Department of Personnel and Administrative Reforms, Government of Bihar, Patna, to submit that in case both husband & wife are in Government employment and one of them die, then in such cases, legal heir of such a deceased shall not be entitled to compassionate employment.

3. It is thus submitted that in the present case, at the time of death of the mother of the petitioner, the father of the petitioner was in Government service, hence, it is submitted that as per the scheme, compassionate employment cannot be offered to the



petitioner, thus, the present writ petition is devoid of merit and to the said effect, a reasoned and a speaking order dated 5.1.2015 (Annexure-R/1 to the counter affidavit) has already been passed by the District Compassionate Appointment Committee, Bhagalpur. Moreover, the petitioner has been found to be illiterate and does not fulfill the basis educational qualification required for being granted appointment on compassionate ground.

4. The aforesaid factual position is not disputed by the petitioner, hence, the present writ petition is devoid of any merit.

5. Yet another aspect of the matter is that if any application is entertained after a long delay, not only existing vacancies may be filled up by regular appointment, but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependent of the deceased employees may crop up, hence, what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserve a job for one of the dependents. In the present case, the death of the mother of the petitioner had taken place in the year, 2004, hence, now after a lapse about 19 years, the very object of the compassionate employment scheme would be



violated, in case compassionate employment is directed to be offered to the petitioner, inasmuch as the object of the compassionate employment scheme is to enable the family to get over the financial crises, which it faces at the time of the death of the sole breadwinner, thus, the case of the petitioner for grant of compassionate employment merits no consideration. It would be apt to refer to a judgment, rendered by the Hon’ble Apex Court in the case of *Umesh Kumar Nagpal vs. State of Haryana & Others*, reported in (1994) 4 SCC 138.

6. Having regard to the facts and circumstances and for the reasoned mentioned hereinabove, I do not find any merit in the present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.9.2023
Transmission Date	NA

