

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20561 of 2013

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Uttam Raj Son Of Late Sudhir Kumar Gupta Resident Of Village/Mohalla-
Raham Ganj, P.S. Laheria Sarai, District- Darbhanga

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Darbhanga
3. The Chairman District Compassionate Appointment Committee, Darbhanga
4. The Deputy Collector Establishment, Darbhanga
5. The Block Development Officer, Kusheshwar Asthan Darbhanga Cum Vice
Chancellor Of L N M University, Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	None
For the State	:	Mr. S.D. Yadav, AAG-9. With Mr. Nagendra Kumar, AC to AAG-9

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 30-01-2023

1. No one appears for the petitioner.

2. The petitioner by way of this writ petition has prayed that he should be considered for appointment on Class-III post on compassionate grounds, for which his claim was originally recommended in stead of Class-IV post, on which he has already been appointed.

3. The respondents have stated that the Appointment Committee considered the case of the petitioner and after considering all the aspects he was recommended for Class-IV post, where he joined on 07.04.2010. The order of appointment dated 01.04.2010 has been placed on record.



4. Having noticed above, this court finds that the petitioner has no right of claiming a particular post on compassionate basis.

5. The Supreme Court in case of **State of Rajasthan Vs. Umrao Singh, 1994 (6) SCC 560** has held as under:-

“8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of vacancy. On a consideration of his plea, he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of “endless compassion”. Eligibility to be appointed as Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case.

9. Since both the sides relied on Naresh Kumar Bali's case [(1994) 4 SCC



448 : 1994 SCC (L&S) 909 : (1994) 27 ATC 611 : JT (1994) 4 SC 184] , we will now refer to the same. We had indicated our mind in that very ruling in paragraph 15 of the said judgment. It reads as under: (SCC p. 452, para 15)

“Though the respondent claimed that he had applied for the post of a teacher the Subordinate Service Selection Board had not chosen him for the post of teacher because he did not have the requisite qualification. In fact, the respondent did not object to his appointment as a clerk and his claim for consideration for the post of teacher was one year after his appointment. Thus, the appointment on compassionate ground as per the scheme had been completed.”

(emphasis supplied)

Therefore, once the right has consummated as we indicated earlier, any further or second consideration for a higher post on the ground of compassion would not arise.

10. It is true that in the decision cited, the direction by the High Court was a positive direction to make the appointment but here the direction was to consider the case. Nevertheless, we find that the High Court was not legally justified in directing a further consideration of the candidature of the respondent for the post of Sub-Inspector. The civil appeal will stand allowed and in reversal of the orders of the courts below respondent's writ petition is dismissed. There shall be no order as to costs.”



6. Keeping in view thereto, no case for interference is made out. The writ petition is devoid of merits and accordingly dismissed.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 126

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