

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8422 of 2022

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1. Kanhaiya Kumar S/o- Late Sitaram Singh, resident of At- Ward No. 2, Tola Srikanth, Barahiya, P.O. and P.S.- Barahiya, District- Lakhisarai, State- Bihar.
 2. Manju Devi W/o- Late Sitaram Singh, resident of At- Ward No. 2, Tola Srikanth, Barahiya, P.O. and P.S.- Barahiya, District- Lakhisarai, State- Bihar.

... .. Petitioners

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Director-in- Chief, Health Services, Government of Bihar, Patna.
3. The District Magistrate-cum- Chairman, District Level Compassionate Appointment Committee, Patna.
4. Deputy Collector, Establishment, Patna.
5. The In Charge Officer, Filaria Control Unit, Badh, District- Patna.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Bishwa Bibhuti Kumar Singh, Advocate
For the Respondent/s : Mr.Upendra Prasad , AC to GP-25

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 10-05-2023 Learned counsel for the petitioners is permitted to

remove the defects in course of the day.

Heard learned counsel for the petitioners and the

State.

Petitioners in the present case are seeking the

following reliefs:-

“(i) To consider the case of the petitioner
no. 1 for grant of compassionate appointment by
virtue of the death of the father of petitioner who
died in harness.

(ii) For consideration of the case of the
petitioner in light of the Order of this Hon’ble



High Court dated 21.01.2019 passed in CWJC No. 1194 of 2019 (Damyanti Devi vs. The State of Bihar & others) and also in the light of the Full Bench Judgment of this Hon'ble High Court (Neeraj Kumar Mallik Vs. The State of Bihar & others) reported in 2018(2) PLJR 951.

(iii) For consideration of the representation filed by the petitioner dated 16.12.2019 which was subsequent to the representation dated 12.07.2018 and is pending before the Respondent no. 3 for consideration of the case of the petitioner for grant of Compassionate appointment.

(iv) For setting aside the letter no. 171 dated 28.11.2018 issued by the In-Charge Officer, Filarial Control Unit, Badh (Patna) as the same is contrary with the order of the Full Bench Judgment.

(v) Any other relief or reliefs/ interim relief as your lordship may deem fit and proper.”

Learned counsel for the petitioners submits that the deceased government employee had three sons namely- Nilesh Kumar, Vikram Kumar and Kanhaiya Kumar and one daughter namely Rinki Kumari. It is stated that during the lifetime of the deceased government servant, there was a partition in the family and as back as on 13.01.2010, a “Batwaranama” was executed by the family members in which it is stated and affirmed that Nilesh Kumar along with his wife was separated as he is in government job and the second son, Vikram Kumar had his own



business.

Learned counsel for the petitioners submits that the stipulations present in the “Batwaranama” are showing that the eldest son- Nilesh Kumar was living separately and the two other sons were fully dependent upon the deceased government servant. Learned counsel submits that the claim of the petitioner no.1 for appointment on compassionate ground has been rejected but no order of rejection has been supplied to the petitioners. He, however, finds from the counter affidavit that the claim of the petitioner no. 1 has been rejected on the ground that the eldest son of the deceased government servant was in government service and because he is gainfully employed, hence, the other sibling of the deceased government servant would not be considered for appointment. Learned counsel submits that the facts of the present case are such that the ratio of the judgment of the Hon’ble Full Bench of this Court in the case of **Neeraj Kumar Mallik vs. The State of Bihar and Others** reported in **(2018) 2 PLJR 951** would not apply. In this case, on the date of death of the government servant i.e. on 25.06.2016, only the eldest son- Nilesh Kumar was employed who had already separated from the family long back in the year 2010. In the case of **Neeraj Kumar Mallik** (supra) the facts



were otherwise, hence, the case of the petitioner no. 1 requires re-consideration.

Learned counsel for the State submits that the claim of the petitioner no. 1 for appointment on compassionate ground has been rejected because the eldest son of the deceased government servant is in service.

Consideration

Having heard learned counsel for the petitioners and the State, as also on perusal of the records, this Court finds that Annexure '1' is the copy of the "Batwaranama" which has been signed by the deceased government servant also during his lifetime. It clearly states that the eldest son (4th party) is living separately from the family whereas the other two sons were dependent upon the government servant, they were engaged in studying and were yet to be married.

In this fact situation, this Court sets aside the decision of the District Level Compassionate Appointment Committee which has been brought on record with the counter affidavit as Annexure 'R-3/A' and directs the Committee to reconsider the case of the petitioners keeping in view the distinction which has been sought to be made before this Court in respect of the petitioners.



Let afresh consideration be given within a period of three months from the date of receipt/ communication of a copy of this order. A reasoned order of the District Level Compassionate Appointment Committee must be communicated to the petitioners within the given period.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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