

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9662 of 2023

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1. Rekha Devi Wife of Late Surendra Prasad Resident of Village-Dekpura, P.O. Mora Talab, P.S. Rahui, District-Nalanda, Bihar-803118.
 2. Sanjeet Kumar Son of Late Surendra Prasad Resident of Village-Dekpura, P.O. Mora Talab, P.S. Rahui, District-Nalanda, Bihar-803118.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The D.I.G. of Police (Personnel), Bihar, Patna.
4. The D.I.G. of Police, Bihar, Special Armed Police, Central Zone, Patna.
5. The Commandant, B.S.A. P-10, Patna.
6. The A.I.G. of Police, BSAP, Bihar, Patna.
7. A.I.G. of Police (Welfare), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad, Advocate
For the State	:	Mr. Md. N.H. Khan, SC- 1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 08-09-2023

1. Heard learned counsel for the petitioners and learned counsel for the State.

2. The petitioners claim for appointment on compassionate ground has been rejected by communication dated 17-06-2022 (Annexure- 5). The reason assigned is the fact that the petitioners' sibling is gainfully employed.

3. Learned counsel for the petitioners makes a very



short submission, relying on the decision of the Hon'ble Full Bench, in the case of *Niraj Kumar Mallick vs State of Bihar & Ors.* passed in *C.W.J.C. No. 17143/2016*, reported in *(2018) 2 PLJR 951*. Referring to paragraph Nos. 47 & 49, he submits that the fact of sibling being employed, *per se* cannot be made the basis for excluding the petitioners' claim for compassionate appointment.

4. The mandate, as per decision of the Hon'ble Full Bench, is clear that it is required to be seen by the Authorities whether employment is such, which would generate sufficient resources to provide both ends meet for the legal heirs. It is only if such fact is established that the claim can be rejected, irrespective of the fact whether sibling is maintaining the other legal heirs or not. There is no consideration of this aspect, and therefore, petitioners would be placing before respondent No. 5 material to show that income generated by the employment of the petitioners' sibling is insufficient to sustain the other legal heirs.

5. If such application is filed before the Commandant, B.S.A. P-10, Patna (respondent No. 5) within four weeks, respondent No. 5 shall be required to accord due consideration in terms of decision of the Hon'ble Full Bench, noted above



within eight weeks thereafter. While according to such consideration, earlier rejection dated 17-06-2022, shall not come in the way.

6. With such observation/s and direction/s writ petition is allowed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12-09-2023
Transmission Date	N/A

