

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.799 of 2019

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Arvind Kumar S/o late Mosafir Mahto R/o Village- Ekara, P.O. Thathan
Bujurg, P.S.- Hajipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Engineer-In-Chief Cum Special Secretary,
Road Construction Department, Govt. of Bihar, Patna.
2. The Deputy Secretary, Road Construction Department, Govt. of Bihar,
Patna.
3. The Superintendent Engineer, Saran Road Circle, Hajipur, Vaishali.
4. The Executive Engineer, Vaishali Road Circle, Hajipur, Vaishali.
5. The Assistant Engineer, Road Sub Division, Hajipur, Vaishali.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate
For the Respondent/s : Mr. Manoj Kr. Ambastha, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 28-11-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed by
the petitioner directing the respondents to appoint the
petitioner to Class-III/ Class-IV post on compassionate
ground in the light of office order contained in Memo
No.3105(s) dated 31.03.2017, by which the services of the
father of the petitioner was regularized under work charge
establishment.



3. Learned counsel for the State opposes the prayer and submits that the present writ petition is not maintainable due to the reason that the petitioner has earlier moved before this Hon'ble Court with same relief in CWJC No.17178 of 2014, which was dismissed vide order dated 21.09.2016. Counsel for the State further submits that being aggrieved and dissatisfied with the said order dated 21.09.2016 passed in CWJC No.17178 of 2014, the petitioner had preferred L.P.A. No.2057 of 2016 which was dismissed on 19.06.2017. As such, the petitioner has no right to file the writ petition when the petition for compassionate appointment has been dismissed up to LPA Bench.

4. It transpires to this Court that the services of the petitioner's father was regularized in Regular Work Charge Establishment vide letter dated 31.03.2017, whereas the L.P.A. was dismissed on 19.06.2017. It transpires to this Court that the decision of regularization of the petitioner's father was not placed before the L.P.A. Bench in L.P.A. No.2057 of 2016.

5. In this view of the matter, this Court is of the opinion that the points which ought to be raised not raised cannot be raised. This is the principles of constructive res



judicata and, therefore, in view of the Court the fresh writ petition is not maintainable and no order could be passed in the fresh writ petition. Therefore, this writ petition is dismissed. The petitioner is at liberty to take another legal recourse, if advised.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2023
Transmission Date	NA

