

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.957 of 2020

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Babar Momin Son of Hasim Momim @ Hashim, Resident of Sahpur Ward
No. 04, Domai, P.S. and District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, General Administration Department, Bihar, Patna.
3. The Principal Secretary, P.H.E.D., Bihar, Patna.
4. The Superintending Engineer Public Health Engineering Department, Circle,
Munger.
5. The District Magistrate Cum Chairman District Compassionate Committee,
Jamui.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Sinha, Adv
For the Respondent/s : Mr. Vishambar Prasad, Adv

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 13-10-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Counsel for the petitioner submits that the present writ petition has been filed for directing the respondents authorities to appoint the petitioner on Class-III post on compassionate ground in the light of the recommendation made Vide Memo No.77 dated 13.02.2019.

3. Counsel for the petitioner submits that the father of the petitioner who died in harness was working as Key Man-cum-*Chowkidar* in Public Health Engineering Division, Jammui. Counsel submits that after the death of the petitioner's



father, the petitioner has applied for his appointment on compassionate ground and the committee has recommended him to be appointed on Class-III post on the basis of his eligibility as per Memo No. 77 dated 13.02.2019. Counsel further submits that even after recommendation for his appointment on Class-III post, appointment could not be made either on one pretext or the other. Lastly, petitioner has preferred the present writ petition.

4. During the pendency of this writ petition, the respondents have offered the petitioner to join on Class-IV post. Petitioner further submits that petitioner was in dire need of money, therefore, he joined the Class-IV post in Public Health and Engineering Department, Araria and starting getting his regular salary after appointment.

5. Counsel submits that the petitioner has all eligibility and moreover recommendation by the compassionate committee for Class-III post. The other hand counsel for State submits that the question of compassion cannot continue endless as held in the judgment of Hon'ble Supreme Court in the case of ***State of Rajasthan Vs Umrao Singh reported in 1994 (6) SCC 560*** by which it has been held

“Having 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.

6. He further submits that in the said judgment it has been held that once a compassionate appointment was given and accepted, the right to such appointment held stood exhausted, and therefore, second consideration of higher post not warranted.

7. Upon going through the records of the case and the argument of the parties, it is clear that the father of the petitioner had died during service and it is due to this reason, the right accrued to the petitioner for compassionate appointment, as per his eligibility, the committee recommended him to be appointed in Class-III post as per the decision contained in Memo no. 77 dated 13.02.2019 but subsequently, the petitioner himself opted to join on class IV post then in that case, this Court is of the view that compassionate appointment has been ended when he became the employee of Class IV category and particularly in the light of the decision passed by Hon'ble Supreme Court in the



Case of *State of Rajasthan Vs Umrao Singh(Supra)*.

8. As such, this Court is not inclined to grant any relief to the petitioner, therefore, this writ petition is dismissed.

(Dr. Anshuman, J.)

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