

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1457 of 2024

Ashok Kumar Raut Son of Late Maheshwar raut Resident of Village Hanuman Nagar Basantpur Block Road Ward no. 09 PS Basantpur, District-Supaul, State-Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The District Collector, Supaul.
4. The Chairman, District Compassionate, Committee- Cum- District Collector Supaul.
5. The Deputy Collector (Establishment), Supaul.
6. The Block Development Officer, Basantpur, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nagendra Upadhyay, Advocate
For the Respondent/s : Government Pleader 23

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 12-12-2024 Heard Mr. Nagendra Upadhyay, learned counsel

appearing on behalf of the petitioner and learned Government

Pleader 23 appearing on behalf of the State.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought, *inter alia*, the following relief(s), which is
reproduced hereinafter:-

“That this is an application for issuance of a writ in the nature of mandamus directing and commanding the respondents to appoint the petitioner on the any post of government service on compassionate ground as the father of petitioner died in harness during service period and due to sudden death of the bread earner the petitioner is facing difficulties to maintain his family member. And/or pass such other order/orders as



may appear just and proper in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is the son of the deceased employee, who died in harness on 21.04.2021 and his application, on compassionate ground, was accepted in the office of Basantpur Block on 31.08.2023 and the same was placed before the District Compassionate Committee on 01.01.2024. The claim of the petitioner has not been decided on the ground that the said Committee has also received claim of one Ajay Raut, who is the step-brother of the petitioner, who had born from the second marriage of the father (deceased employee) of the petitioner with one Phuleshwari Devi. The application has been kept pending on the account that “No Objection Certificate” of the other brothers, namely, Ajay Raut and Sanjay Raut, who are biological sons of the father of the petitioner and Phuleshwari Devi (the step mother of the petitioner), is pending.

4. Considering the state of affairs and the consideration of other particulars, in exercise of power under Article 226 of the constitution of India, this Court cannot enter into such disputed facts. The petitioner, if so advised, may obtain “No Objection Certificate” from his other brothers, who



are biological sons of the deceased employee, in view of the fact that to claim compassionate appointment, only one person has the right. The law in respect of compassionate appointment is no more *res integra* and purpose of providing employment to a dependent of a Government servant dying in harness is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service.

5. The Apex Court relying on the ratio of ***Umesh Kumar Nagpal v. State of Haryana and Others*** reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment



cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

6. In the case of ***Jagdish Prasad v. State of Bihar*** reported in ***(1996) 1 SCC 301***, Hon'ble Apex Court, while considering the object of compassionate appointment, held that the object of appointment of a dependent of the deceased employees, who die in harness, is to relieve unexpected immediate hardship and distress caused to the family, by sudden demise of the earning member of the family. In case of ***State of U.P. v. Paras Nath***, reported in ***(1998) 2 SCC 412***, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness, in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these considerations can operate, while the application is made after a long period of time.

7. On merits, I find that the terminal benefit of the deceased employee was equally distributed among the



biological sons of the deceased employee (father of the petitioner) and the family pension is being received by the second wife of the deceased employee namely Phuleshwari Devi. In such circumstances and in view of the Circular of the State Government, as well as, the fact that the law is well settled in respect of appointment on compassionate ground.

8. The District Compassionate Committee must reconsider the case of the petitioner, as compassionate appointment is beneficial in nature and in such appointment, the technical rules and appointment terms and conditions are bypassed and at the same time, the petitioner also needs compassion from the State, as it is a welfare State. The District Compassionate Appointment Committee must decide the case afresh by taking a conscious decision, considering that the step mother of the petitioner is living separately and she is also receiving pension.

9. With the aforesaid direction/observation, the present writ petition stands disposed of.

(Purnendu Singh, J.)

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