

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4651 of 2021

Md. Shahbaz Razi, Son of Late Abdul Kudus, Resident of Mohalla- Char Hazar, P.S.- Maner, District- Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Energy Department, Government of Bihar, Patna
2. The Director, Bihar Renewable Energy Development Agency, 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna-1
3. The Deputy Director, Bihar Renewable Energy Development Agency, 3rd Floor, Sone Bhawan, Birchand Patel Path, Patna-1
4. The District Magistrate, Katihar
5. The Deputy Development Commissioner, Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Sinha, Advocate
For the Respondent Nos. 2 & 3	:	Mr. Prasoon Sinha, Advocate
For the State	:	Mr. Government Advocate No. 3

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

21 19-11-2024 Heard Mr. Rajesh Kumar Sinha, learned Advocate for the petitioner and Mr. Prasoon Sinha, learned Advocate representing the respondent no. 2 and 3.

2. The petitioner is aggrieved by the order as contained in memo no. 1136 dated 04.07.2019 issued under the signature of respondent no. 3 whereby the application of the petitioner for appointment on compassionate ground came to be rejected. The petitioner also sought for a direction commanding upon the respondent to consider his claim for appointment on compassionate ground on account of the death of his father who



died in harness on 14.10.2009 while he has holding a post of technician in the office of Deputy Development Commissioner, Katihar.

3. The short facts which led to the filing of the present writ petition are that the father of the petitioner died on 14.10.2009 and at the relevant point of time, admittedly the petitioner was minor and, as such, he submitted his application for appointment on compassionate ground in the year 2011 after attaining the age of majority. Despite the fact that the application for appointment on compassionate ground was pending consideration; and the claim of the petitioner could not be considered after a pretty long time, he compelled to approach before this Court in CWJC No. 12470 of 2014.

4. Having taken note of the facts aforementioned, the learned Court vide its order dated 22.04.2019 directed the respondent authorities to take the final decision on the claim of the petitioner. The respondent authorities specially respondent no. 3 considered the claim of the petitioner, but on being found that there is no provision for appointment on compassionate ground, in as much as, the employees of the BREDAs are not treated at par with employees of the State Government, thus, in the said premise rejected the claim that in no circumstances the



benefit of compassionate appointment can be extended to him. The aforesaid order as contained in memo no. 1136 dated 04.07.2019 is marked as Annexure 8 to the writ petition which is put to challenge in the present writ petition.

5. At the outset, learned Advocate for the petitioner primarily contended that the impugned order is in the teeth of the order passed by the Bench of this Court, wherein the Court directed the BREDA to consider the claim of the dependent of the deceased employee for compassionate appointment and accordingly, he has been extended the benefit of compassionate appointment.

6. To fortify the aforesaid submission, learned Advocate for the petitioner drew the attention of this Court to the decisions rendered by this Court in the case of ***Suraj Kumar vs. The State of Bihar & Ors., CWJC No. 1176 of 2007*** as also in ***Ravi Ranjan vs. The State of Bihar & Ors., CWJC No. 16430 of 2007***, disposed off on 31.03.2011 and 25.04.2011, respectively. Pursuant to the direction of this Court, the claim of both the writ petitioners were duly considered by the respondent BREDA and they have been extended the benefit of appointment on compassionate ground.

7. Learned Advocate for the petitioner further placed



on record the resolution issued by the Director, BREDA, Patna as contained in memo no. 1323 dated 31.07.2024 and submitted that the BREDA has resolved to extend the benefit of appointment on compassionate ground in case of death of an employee while serving BREDA. The aforesaid resolution has also been approved by the Finance Department.

8. At this stage, Mr. Prasoon Sinha, learned Advocate for the BREDA submits with all fairness that if the resolution has been issued at the level of the Director, BREDA, it cannot be refuted. However, it is the admitted fact that the father of the petitioner died way back in the year 2009 and the very object of the compassionate appointment is to give immediate succour to the family, whose sole bread earner died while serving the institution.

9. This Court has heard the learned Advocate for the respective parties and also perused to the materials available on record, as well as the resolution issued by the BREDA.

10. It is not in dispute that some of the dependent of the deceased employees of the BREDA were extended the benefit of appointment on compassionate ground, though pursuant to the direction of this Court. The afore-noted resolution dated 31.07.2024 clearly demonstrate that now the



BREDA has already taken a conscious decision to extend the benefit of appointment on compassionate ground.

11. In view of the admitted position and also taking note of the fact that the petitioner had submitted his application within a reasonable period of time and other dependents have been extended the appointment on compassionate ground on account of death of their bread earner, this Court finds the impugned order as contained in Annexure 8, is not sustainable and accordingly the same stands quashed, with a further direction upon the respondent no. 3, to consider the claim of the petitioner for appointment on compassionate ground, in the light of the newly issued resolution, as contained in memo no. 1323 dated 31.07.2024, as also the fact that the case of the petitioner is based on parity, preferably within a period of twelve weeks from the date of receipt/production of a copy of this order.

12. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

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