

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2640 of 2019

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Pintu Kumar Son of Late Chandra Bhushan Rai, Resident of F/65, Electricity Board Colony, Post Office- Shashtri Nagar, Police Station- Shashtri Nagar, Patna.

... .. Petitioner/s

Versus

1. The South Bihar Power Distribution Company Ltd. and Ors Vidyut Bhawan, Baily Road, Patna through its Chairman.
2. The Chairman, South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Baily Road, Patna.
3. The Managing Director, South Bihar Power Distribution Ltd., Vidyut Bhawan, Baily Road, Patna.
4. The Director (Administration) South Bihar Power Distribution Ltd., Vidyut Bhawan, Baily Road, Patna.
5. Senior Manager, South Bihar Power Distribution Ltd., Vidyut Bhawan, Baily Road, Patna.
6. Electrical Superintending Engineer, the Electrical Supply Circle, Patna.
7. Electrical Executive Engineer, MRT Division Patna.
8. The Central Compassionate Committee, through its Chairman South Bihar Power Distribution Company Ltd. Vidyut Bhavan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar, Adv.
For the Respondent/s : Mr. Vinay Kirti Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 12-02-2024

Heard learned counsel for the petitioner and learned senior counsel for the South Bihar Power Distribution Company Limited.

2. The present writ application has been filed for quashing of the letter contained in Memo No. 238 dated 25.06.2018, issued under the signature of Senior Manager,

South Bihar Power Distribution Company Limited, whereby and where under, the request made by the petitioner for compassionate appointment has been rejected in the light of such recommendation made by the Central Compassionate Committee in its meeting held on 12.04.2018, on the ground that one of the offspring of the deceased employee is in the government job.

3. Learned counsel for the petitioner submits that the petitioner has already intimated to the respondent Committee that his elder brother was in job prior to the death of his father and he left contact with the family, who is continuing after his father's death also. His mother also died on 05.08.2005 itself. After the father's death, there was no one to look after the family, as stated in Annexure- P/6.

4. Learned counsel for the petitioner further submits that he has filed representation to the different authorities annexed as Annexure- P/6, P/7 and P/8 but respondent sat over the matter. He further submits that the company used to follow the Rule of the Government contained in Memo No. 15783 dated 19.11.2014. A copy of the same is attached herewith:-

(ग) मूल सत्रावधि कार्गो के आधितों में से कौनसी के निर्धारित करने की विधि में अन्य आधितों में से किसी को अनुकम्पा नियुक्त हो लाभ दिया जा सकता है अथवा नहीं ?	सामान्य प्रशासन विभाग से निर्गत पत्रांक 1781 दिनांक-10.05.2010 के तहत परिशिष्ट माननीय परन्तु इस लागूमान्यता को संशोधित किया गया है। प्राप्त सी०एस०एन०डीआर सी०-5505/2003 तथा सी०एस०एन०डीआर सी०-7044/2003 में जोड़ित सैनिकित्त साक्ष्य विनांक 27.07.2004 के आलोक में संगणकात्मक में मूल सरकार की छत्ती के आधितों में से किसी को Gainfully नियोजित होने की स्थिति में उसके अन्य आधितों में साथ रहने अनुरोध की रहने के बावजूद अन्य आधितों में से किसी को अनुकम्पा नियुक्ति का लाभ अनुमान नहीं है। Gainfully- नियोजित रहने से सम्बन्ध ऐसे नियोजन से है जिससे मूल सरकारी योजना के अधितों का भरण पैषण हो सके।
(ख) लाभदा सरकारों सेवाओं के अधितों को अनुकम्पा नियुक्ति के संबंध में।	लाभदा सरकारों सेवाओं के अधितों को अनुकम्पा के आधार पर नियुक्ति की अनुमति प्राप्त इस विभाग से निर्गत परिषद संख्या-7148 दिनांक-31.10.2008 के तहत की गई है।

[illegible]

नोट:- सामान्य प्रश्न-सूचक विभाग से निर्गत सभी संकल्पों/परिपत्रों/अनुदेशों की प्रतियाँ इस विभाग की वेबसाइट से प्राप्त की जा सकती हैं।

विश्वासनामन
१०/-

(कैशव कुमार सिंह)

सायकल के अण्ड सविय ।

आपांक-22/अनु-06/2014 आग्रह-1.1.1.1.1.1 / पटना-15, दिनांक-19.11.2014
प्रतिष्ठिति- सरकार के सभी विभाग / विभागाध्यक्ष/प्रमुख/प्रमुख आग्रह तथा सभी
विभाग प्रमुखों को सूचना एवं आवश्यक कार्यवाई हेतु प्रेषित।

सत्यतर के सागर संचित ।

5. In response of the respondent's argument, learned counsel for the petitioner has placed a Full Bench decision of this Court in case of ***Niraj Kumar Mallick Vs. The State of Bihar & Ors. through Secretary, Rural Work Department, Government of Bihar, Patna, Sandip Chauhan Vs. The State of Bihar & Ors. through Secretary, Department of Home, Government of Bihar, Patna and Vijay Kumar Vs. The State of Bihar & Ors. through the Chief Secretary, Government of Bihar, Patna reported in 2018 (2) PLJR 951 (FB)*** that this Hon'ble Court has pleased to clarify the terminology of the gainful employee and it has been directed in the light of observation made in case of ***L.I.C. Vs. Asha Ramchandra Ambekar reported in AIR 1994 SC 2148*** that the Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however, hard the case may be, it should never be done.

6. In the light of the submissions made, this Court is of the view that the respondent company has not passed any order on the representations made by the petitioner as the petitioner has not suppressed the factual matrix, therefore, this case is disposed of directing the respondent company to pass a

reasoned and speaking order considering the Full Bench decision of this Court in case of *Niraj Kumar Mallick Vs. The State of Bihar & Ors. (supra)*, within 60 days from the date of production of this order.

7. The Committee is free to take decision in case it has been found that any one of the deceased employee is minor.

(Dr. Anshuman, J.)

sadique/-

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CAV DATE	
Uploading Date	
Transmission Date	