

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10199 of 2018

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Gautam Kumar S/o late Chandrama Rai Resident of Mohalla- Shyam Chak,
P.O. Chapra, P.S. - Bhagwan Bazar, District- Saran at Chapra.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna
2. Director General of Police, Bihar, Patna.
3. The Inspector General of Police (Welfare), Bihar, Patna.
4. Assistant to Inspector General of Police (Welfare), Bihar, Patna.
5. The Inspector General of Police, Magadh Range, Gaya.
6. The Deputy Inspector General of Police, Aurangabad.
7. The Commissioner, Magadh Division, Gaya.
8. The District Magistrate, Aurangabad.
9. The Superintendent of Police, Aurangabad.
10. The Deputy Superintendent of Police, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dewendra Narayan Singh, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 13-02-2024

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

2. The present writ petition has been filed for a direction to the respondent authorities to appoint the petitioner on the post of Class-III employee in the Department of Police on compassionate ground on account of death of his father, who died in harness on 20.05.2013 while working on the post of



A.S.I. of Police at Kashma Police Station in the District of Aurangabad.

3. Learned counsel for the petitioner submits that the petitioner has applied for compassionate appointment and his matter was recommended for appointment. But during pendency of the application for compassionate appointment, one brother of the petitioner joined service on the post of driver in the railway department. Learned counsel for the petitioner submits that the case for compassionate appointment has been rejected by the authority in the light of letter issued by the Government contained in Memo No.15783 dated 19.11.2014. Counsel submits that this letter has been taken consideration in the Full Bench of this Hon'ble Court in the case of **Niraj Kumar Mallick Vs. The State of Bihar** reported in **2018(2) PLJR 951 (FB)**. Counsel submits that the Full Bench of this Hon'ble Court specifically laid down the ratio in paragraph-48, which states as follows:

“48. In terms of the clarification offered by the department, on receipt of information that other siblings of the applicant are in employment, the competent authority would be required to objectively look into the nature of the employment and



the resources being generated by the employed sibling from such employment. On an objective consideration where it is found that other sibling of the applicant is gainfully employed in such an employment from which he/she is in a position and has capacity to provide sustenance/maintenance to the other dependents, the application for appointment on compassionate ground would not fit in the scheme in terms of the clarification at Annexure-'A' referred above but where it is found that the employment of the other sibling is of such a nature that it is not generating resources so as to make him able to provide both ends meet, for sustenance/maintenance to the other dependents of the deceased government employee and despite gainful employment of one of the dependents but because of his poor income from such employment he is not in a position to provide two ends meet to the other dependents, therefore they are on the verge of starvation, destitution and penury, the authorities of the State would be liable to consider the application of other dependent for



appointment on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment.”

Therefore, counsel submits that an opportunity may be granted to the petitioner by way of filing a representation and respondent may be directed to decide the representation considering the observation made in paragraph-48.

4. In the light of the submissions made and after going through the Full Bench decision and particularly the findings given in paragraph-49 which is as follows:

“49. In my opinion the Division Bench judgment of this Court in the case of Vishal Kumar (supra) followed by learned Writ Court in the case of Mahabir Paswan (supra) and Jay Prakash Choudhary (supra) are laying down the correct law. In none of these writ applications, the petitioners have pleaded that their other siblings are in such an employment by which they are unable to get sufficient money so as to provide the both ends meet to these petitioners, therefore we find no



error in the impugned order rejecting the application of the petitioner(s) on the ground that their other siblings are in employment. I would, therefore approve the judgment dated 22.08.2016 passed by the learned Single Judge in CWJC No.10236 of 2013 which has followed the judgment of the Hon'ble Division Bench in the case of Vishal Kumar (supra).”

5. No such plea has ever been raised by the petitioner at any early occasion for which ratio has been laid in para-48 of this Full Bench decision, this Court finds that the petitioner has no case as in Annexure-7. The only plea has been taken that the brother who is in employment is living separately.

6. In this view of the matter, this writ petition is dismissed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
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