

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3816 of 2024

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Ganesh Chandra Tiwari @ Shri Ganesh Chandra Tiwari Son of Late
Brahmanand Tiwari, Resident of village - Barhetta Road, P.S. - Bahadurpur,
District - Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The Deputy Development Commissioner, Darbhanga.
5. The District Welfare Officer, Darbhanga.
6. The Assistant Commissioner, Commercial Tax, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anuj Kumar, Advocate
For the Respondent/s	:	Mr.K.P. Gupta, GP-10
		Ms.Deepanjali Gupta, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 22-03-2024 1. The present writ petition has been filed seeking the
following relief(s):-

*“1(A) A writ in the nature of CERTIORARI or
any other appropriate writ order/s, direction
quashing the following:*

*(i) To quash the Memo No. 1552/Astha.
Laheriasarai, dated 26th September,
2017 whereby and where under the
representation of Petitioner for the
appointment on compassionate ground
has been dismissed as per Memo No.
15783 dated 19.11.2014 with observation*



that the Petitioner's elder brother is posted as Lipik (clerk) as mention at Sl. No. 5.

(B) A writ in the nature of MANDAMUS or any other appropriate writ/s, order/s, direction/s the commanding the Respondents for the following:

(i) To direct the Respondent Authorities to enquire about the dependency of the Petitioner in accordance with judgment dated 02.05.2018 passed in CWJC No. 17143 of 2016 reported in (2018) 2 PLJR 951.”

2. At the outset, the learned counsel for the petitioner seeks a direction upon the District Compassionate Appointment Committee, Darbhanga, headed by the District Magistrate, Darbhanga to reconsider the case of the petitioner for grant of compassionate appointment, in light of the full Bench judgment, rendered by this Hon'ble Court, in the case of Niraj Kumar Mallick Vs. The State of Bihar and Ors., reported in 2018 (2) PLJR 951, paragraph no.49 whereof is reproduced hereinbelow:-

“49. 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.”

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the District



Compassionate Appointment Committee, Darbhanga, headed by the District Magistrate, Darbhanga to examine the case of the petitioner, afresh, in light of the aforesaid judgment, rendered by the full Bench of this Court in the case of Niraj Kumar Mallick (supra) and take a decision, forthwith.

4. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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