

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5073 of 2020

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Suresh Kumar Ram Son of Late Ayodhya Ram Resident of Village Naudihan,
P.O. Raipur Chor, P.S. Shivsagar, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The District Compassionate Appointment Committee, Madhubani through its Chairman.
3. The Chairman, District Compassionate Appointment Committee District Madhubani, Bihar.
4. The Executive Engineer, Western Koshi Canal Division, Rajnagar, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Adv.
For the Respondent/s : Mr. Sheo Shankar Prasad (SC-8)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 09-05-2024

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

2. The present writ petition has been filed for quashing the portion of Gyapank No.889/District Establishment, Madhubani dated 11.06.2018 (annexed as Annexure-3) relating to the petitioner whereby the petition dated 16.01.2017 for appointment of the petitioner on compassionate ground was rejected by the District Compassionate Appointment Committee and for directing the respondents to appoint the petitioner on compassionate ground.



3. Learned counsel for the petitioner submits that father of the petitioner was working as a Jeep Driver, Western Koshi Canal Division, Rajnagar and died on 26.07.2017 during his service period. The wife of the deceased employee requested the respondent to appoint his eldest son (petitioner) on compassionate ground. Counsel submits that the petitioner has passed I.S.C. examination from Bihar Intermediate Council in the year 1995 securing 1st Division and completed his graduation in B.A. from L.N. Mithila University. The petitioner has also completed Diploma course in Computer Application. Counsel further submits that the other sons and daughters of the deceased employee had also given their consent for appointment of the petitioner on compassionate ground in prescribed format. Counsel submits that District Compassionate Appointment Committee, Madhubani in its meeting held on 21.05.2018 has rejected the claim of the petitioner on the ground that one of the brother of the petitioner namely Umesh Ram is a contractual Teacher in the State of Bihar and therefore, in the light of the notification issued *vide* Gyapank No.889/District Establishment, dated 11.06.2018, the claim of the petitioner has been rejected. Counsel also submits that in the said rejection order, it has been categorically acknowledged by the authorities that the said



contractual teacher is not in contact with the family in any manner.

4. Learned counsel for the petitioner submits that relying on the said circular in which the reference of two Civil Writ Jurisdiction Case Nos.6668 of 2003 with 7044 of 2003, it has been said that whether the person living together or not, but if employed, their case shall not be considered for compassionate appointment. Counsel further submits that in this regard, Full Bench of this Hon'ble Court in case of ***Niraj Kumar Mallick, Sandip Chauhan and Vijay Kumar Vs. The State of Bihar through Secretary Rural Works Department & Ors.*** reported in ***2018(2) PLJR 951*** hold that *where it has been 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 in that case, his case for compassionate appointment ought to be considered.* Counsel further submits that here in the remark column, the District Compassionate Appointment Committee has itself acknowledged that one of the son of the deceased employee is in service, but not keeping any relation with the deceased family and that aspect has not been considered at all.



The authorities may be directed to consider that aspect which they themselves acknowledged in the rejection part of the District Compassionate Appointment Committee in the light of Hon'ble Full Bench decision of this Court referred above.

5. Learned counsel for the State on the other hand submits that the writ petition is not maintainable at all as the decision taken by the District Compassionate Appointment Committee is completely in accordance with law and circular which is based on two different decisions of this Hon'ble Court. Counsel for the State concludes his argument submitting that even after Full Bench decision of this Hon'ble Court, there are other decisions come by Hon'ble Supreme Court which restricts the backdoor entry in any manner.

6. Upon hearing the parties and going through the documents, this Court specifically mentioned the findings of this Hon'ble Court decided in the Full Bench in case of ***Niraj Kumar Mallick, Sandip Chauhan and Vijay Kumar Vs. The State of Bihar through Secretary Rural Works Department & Ors.(supra)*** 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.

*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 22.8.2016 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)''.

7. Here in the present case, the District Compassionate Appointment Committee in its rejection column has acknowledged that the brother of the petitioner who was in service is not keeping any contact from the deceased family in any manner. But that aspect of the matter has not been taken into consideration. This Court is of the firm view that, that aspect of the matter is necessary to be considered in the light of Hon'ble Full Bench decision of this Court. And as such, Gyapank No.889/District Establishment, Madhubani dated 11.06.2018 (annexed as Annexure-3) is hereby quashed.

8. Respondent authorities are directed to pass the order afresh considering the Full Bench decision of this Hon'ble Court and the State shall be at liberty that he may place those Hon'ble Supreme Court judgments before the authorities concerned at the time of passing of the order.

9. The District Compassionate Appointment Committee, Madhubani through its Chairman (respondent no.2) is hereby directed to pass order afresh within 90 days from the



date of production of this order.

10. It is made clear that the said 90 days shall be counted from the date of end of general elections of Lok Sabha, 2024.

11. Accordingly, with the aforesaid observations and directions, this writ petition is hereby allowed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	14.05.2024
Transmission Date	NA

