

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14433 of 2012

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Suman Kumar S/O Late Ram Narayan Ram Resident Of Village Kajha Kothi,
Po- Kajha, Ps K. Nagar, District - Purnea, Presently Posted As Peon In The
Office Of The District Sub Registrar Purnea, District Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General, Registration, Govt. Of Bihar Patna
3. The Assistant Ig Registration, Bihar, Patna
4. The District Registrar-Cum-District Magistrate-Cum-The Chairman, District
Compassionate Committee P
5. The District Sub Registrar, Purnea, District - Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar Manglam, Advocate
For the Respondent/s	:	Mr. Sita Ram Yadav, GP 16
		Mr. Rakesh Kumar Shrivastava, AC to GP 16

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-03-2024

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The present writ petition has been filed for the
following reliefs:-

*i. For issuance of an appropriate writ in the
nature of CERTIORARI for quashing the
order dated 27-04- 2012 issued under the
signature of Respondent no. 3 and
contained in his letter no. 1329 dated 27-
04-2012 whereby and whereunder
Respondent no. 3 has been pleased to order
that there is no provision of reconsideration
of the cases of compassionate appointment
or for conversion of cadre and therefore the
petitioner of the Petitioner is being rejected.*



ii. For issuance of an appropriate writ in the nature of MANDAMUS commanding and directing the respondent authorities to review the Petitioner's case for appointment on co passionate ground and appoint him as a Class III employee in view of the recommendation of the District Compassionate Committee modifying his earlier appointment made on Class IV post on the ground that no Class III vacancy was available in the Registration office of Purnea district.

iii. For a DECLARATION that if the compassionate committee had found the Petitioner eligible for appointment against Class III post and accordingly it was recommended also by the compassionate committee, the appointing authority cannot appoint the Petitioner against a Class IV post contrary to the recommendation, and even if class III post was not available in the registration office of Purnea district, the petitioner's case would have been returned to the Compassionate committee for recommendation to some other department for appointment of the Petitioner in terms with the recommendation of the compassionate committee.

iv. For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioners are entitled under the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the father of the petitioner was working as a Clerk in the Registry Office of Purnea and he died in harness on 06.10.1996. After his death the petitioner has submitted his application for appointment on compassionate ground and the District Compassionate Committee on the basis of the application submitted by the petitioner has recommended the name of the



petitioner for appointment on class III post vide memo no. 2124 dated 19.12.2000.

4. Learned counsel for the petitioner further submits that the petitioner has received the letter dated 08.08.2001 issued by the Deputy Collector (Establishment) Purnea whereby the petitioner has been informed that there is no vacancy in class III post in the district and they have sought the consent from the petitioner for his appointment against a class IV post in the Registration Office, Purnea. He further submits that the petitioner has denied his consent for appointment on class IV post but despite of that the respondent no. 5 had issued the appointment letter in favour of the petitioner and the petitioner has accepted the same and joined the class IV post in the District Registration Office, Purnea and is working since 2001 and thereafter, in 2009 he has filed a representation before the respondent no. 2 to consider the case of the petitioner but no action has been taken by the respondent no. 2 then the petitioner has approached this Hon'ble Court in 2012.

5. Learned counsel for the State submits that the petitioner had earlier been appointed on compassionate ground on class IV post (Annexure-4 of the writ petition) on the ground that no Class III post vacancy was available in the Registration



Office, Purnea. He further submits that the petitioner had given his consent for the appointment on the class IV post and he is working on the said post since 2001.

6. Learned counsel for the State further submits that as per the Circular no. 367 dated 11.02.2006 issued by the Personnel and Administrative Reforms Department (now General Administration Department) Bihar, which suggests that if the benefit of compassionate appointment has been given to the person once, then promotion or change of cadre on compassionate ground shall not be given to him again.

7. Learned counsel for the State further submits that the public authority has offered the compassionate employment with the only objective of enabling the family to get over the financial crises which it faces at the time of the death of the sole bread earner. He referred to the paragraph no. 6 of the judgment reported in **(1994) 4 SCC 138** (Umesh Kumar Nagpal vs. State of Haryana and ors) which is quoted herein below:-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered



whatever the lapse of time and after the crises is over”.

8. In view of the aforesaid provisions issued by the Personnel Administrative Reform Department, the respondent no. 3 has rightly rejected the claim of the petitioner and the petitioner has accepted the appointment on compassionate ground on class IV post in the year 2001 itself.

9. Accordingly, the writ petition stands dismissed as being devoid of merit, there will be no order as to costs however.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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