

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13939 of 2013

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Pooja Kumari D/o Late Prabhu Nath Singh, Resident of Village - Gorauli,
Post Office - Ramgarha, P.S. Daraunda, District Siwan

... .. Petitioner/s

Versus

1. The State of Bihar through Law Remembrance, Old Secretariat, Patna
2. The Learned District and Sessions Judge, Siwan
3. The Registrar General, Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Bihari Singh, Advocate.

For the Respondent/s : Mr. Sushil Kumar Singh, AC to AAG-10.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-09-2024

Heard Mr. Bipin Bihari Singh, learned counsel
appearing on behalf of the petitioner and Mr. Sushil Kumar
Singh, learned AC to AAG-10 for the State.

2. The petitioner in paragraph no. 1 of the present writ
petition has sought, *inter alia*, following relief(s), which is
reproduced hereinafter:-

*“That this application is being preferred for
issuance of an appropriate writ/writs, order/orders and
direction/directions for commanding and directing the
concerned authority including the learned District and
Sessions Judge, Siwan for the consideration and decision
with respect to the appointment of the petitioner on the
compassionate ground against the appropriate post in view
of the facts that her father was died in service period while*



working under the copying section in Civil Court, Siwan and for the other necessary relief/reliefs on the basis of facts and circumstances of this case.”

Brief Facts:

3. The father of the petitioner late Prabhu Nath Singh was working in the copying section as Class-III post in Civil Court, Siwan who died in harness on 25.11.2003, leaving behind the legal heirs and the representatives. Thereafter the Petitioner (daughter of late Prabhu Nath Singh) had filled up an application along with the necessary papers and affidavits sworn by the family members on 30.04.2008 and 05.07.2008 respectively (Annexure-1). Accordingly, a notice was issued from the office of the learned District and Sessions Judge, Siwan to the petitioner and she was asked to submit the educational certificates in support of her bonafide claim within a period of three days (Annexure-2). Thereafter, the petitioner made the representation before the learned District and Sessions Judge, Siwan relating to appointment on compassionate ground. The petitioner had determination that even in case of her appointment against the cadre of 4th grade employee she had no objection (Annexure-3). Thereafter a detailed information were called upon relating to the death of the employees and their death as well as the pendency of the application with respect to the compassionate appointment and the certain information



were supplied which reflects that the name of the petitioner mentioned against serial no. 12 by showing the death of her father on 25.11.2003. The Petitioner had made several requests to the concerned authorities with high expectations that the issue may be examined and claim may be adjudicated , however even after a lapse of long time the issue had not been resolved as yet rather it is kept pending till date.

Submissions:

4. Learned counsel appearing on behalf of the petitioner submitted that the father of the petitioner late Prabhu Nath Singh was working in the copying section as Class-III post in Civil Court, Siwan who died in harness on 25.11.2003, leaving behind the legal heirs and the representatives. Thereafter the Petitioner (daughter of late Prabhu Nath Singh) had filled up an application along with the necessary papers and affidavits sworn by the family members on 30.04.2008 and 05.07.2008 respectively (Annexure-1). Accordingly, a notice was issued from the office of the learned District and Sessions Judge, Siwan to the petitioner and she was asked to submit the educational certificates in support of her bonafide claim within a period of three days (Annexure-2). Thereafter, the petitioner made the representation before the learned District and Sessions



Judge, Siwan relating to appointment on compassionate ground. The petitioner had determination that even in case of her appointment against the cadre of 4th grade employee she had no objection (Annexure-3).

5. The learned Counsel on behalf of the petitioner further submitted that the logic behind the compassionate appointment is immediate help to the family of the deceased employee with the pious wishes that the family will mitigate the hardship by virtue of the sudden death of bread earner and the petitioner had made several requests to the concerned authority with the high expectation that the issue may be examined in detail and the claim may be adjudicated finally within a reasonable time, however, even after lapse of long time, the issue has not been resolved as yet, rather it is kept pending till date and seeks that she be appointed on appropriate post.

6. *Per Contra*, learned Counsel appearing on behalf of the respondents submitted that the petitioner applied for appointment on compassionate ground in 2008 to the post of Clerk even though she was not a graduate at that time, which is an essential qualification for the said post. Hence, her application was pending until 05.09.2011 and when the petitioner filed an undertaking cum no objection for considering



her case for appointment on compassionate grounds as Class IV employee. Thereafter her application was considered by the Appointment Committee, Civil Court, Siwan on 11.04.2012 for appointment as Class - IV employee and the recommendation was sent for approval before the Hon'ble High Court.

7. Learned counsel further submitted that initially the mother of the petitioner had filed an application on 21.05.2004 for appointment on compassionate grounds as Class IV employee and she also preferred a writ for the same bearing CWJC No. 6103 of 2006 (Manju Devi v/s The State of Bihar & ors.) and the said writ application was dismissed for non-prosecution vide order dated 11.02.2009. Thereafter the petitioner filed her application in 2008 which was supported by the no objection of her mother and other family members for the consideration of her appointment as Class-IV employee. The Counsel further submitted that the basic reason for granting compassionate appointment is to help/support the family of the deceased employee to meet the immediate hardship caused to them but the case of the petitioner is not same as the petitioner and her family has managed to survive on their own since 2003 i.e., 13 years so no such reason of mitigating the immediate hardship arises in the case of the petitioner.



Analysis and conclusion:

8. Heard the parties.

9. Considering the rival submissions made on behalf of the parties, as well as, considering the fact that the father of the petitioner was working under the copying section in Civil Court, Siwan and he died during his service period on 25.11.2003. After the death of the father of the petitioner on 25.11.2003, the mother of the petitioner filed affidavits on 30.04.2008 and 05.07.2008 for consideration of the appointment of the petitioner on compassionate ground against the appropriate post. Then after completion of her graduation the petitioner filed another representation for appointment of the petitioner on compassionate ground on 05.09.2011 before the learned District & Sessions Judge, Siwan and another representation was filed by her mother before this Hon'ble Court on 14.02.2012 for the same purpose. In view of the same, a report was called for from the Civil Court vide letter dated 14.03.2012 (Annexure- A Series). The learned District & Sessions Judge, Siwan submitted the minutes of the meeting of Appointment Committee dated 11.04.2012 before this Hon'ble Court vide letter dated 28.04.2012 recommending the petitioner along with two other persons for appointment on compassionate



ground. After considering the entire records of the case and relevant documents, the case of the petitioner has been rejected by this Hon'ble Court and the same has been communicated to the learned District & Sessions Judge, Siwan vide letter dated 11.10.2012 (Annexure- B). The mother of the petitioner had filed an application on 21.05.2004 for appointment on compassionate grounds as Class IV employee and she also preferred a writ for the same bearing CWJC No. 6103 of 2006 (Manju Devi v/s The State of Bihar & ors.) and the said writ application was dismissed for non- prosecution vide order dated 11.02.2009. Thereafter the petitioner filed her application in 2008 which was supported by the no objection of her mother and other family members for the consideration of her appointment as Class-IV employee. The basic reason for granting compassionate appointment is to help/support the family of the deceased employee to meet the immediate hardship caused to them but the case of the petitioner is not same as the petitioner and her family has managed to survive on their own since 2003 i.e., 13 years so no such reason of mitigating the immediate hardship arises in the case of the petitioner.

10. The Apex Court relying on the ratio of *Umesh*



Kumar Nagpal v. State of Haryana and Others reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

- i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.*
- ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*
- iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.*
- iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.*
- v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.*

11. In the case of ***Jagdish Prasad v. State of Bihar***



reported in **(1996) 1 SCC 301**, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

12. In case of ***State of U.P. v. Paras Nath***, reported in **(1998) 2 SCC 412**, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

13. Based on the above principles and the pleadings made in the writ petition and the counter affidavit filed on behalf of respondent nos. 2 & 3, the admitted facts are that the father of the petitioner died on 25.11.2003 while he was in service and for the first time, the mother of the petitioner filed affidavit on 30.04.2008 and 05.07.2008 for consideration of appointment of the petitioner on compassionate ground after



much delay and it cannot be said that the family of the petitioner faced any hardship on account of unexpected death in view of the fact that the petitioner has sustained to live till date, the present writ petition requires no interference.

14. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	17.10.2024
Transmission Date	N.A.

