

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19406 of 2015

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Sri Prem Ranjan Kumar Son of Late Vashudeo Paswan, Resident of Village-
Dafarpur, P.O.- Dafarpur, District- Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Begusarai
3. The President District Compensoment Appointment Committee, Begusarai
4. The District Education Officer, Begusarai
5. The District Programme Officer, Begusarai
6. The Block Education Officer, Begusarai
7. Sri Ram Bharosha Paswan, S/o Late Vashudeo Paswan, Village P.O.-
Dafarpur, Distt.- Begusarai

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjay Kumar Singh
For the Respondent/s : Mr. Dharendra Verma, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

- 5 25-04-2024 1. The present writ application has been filed for quashing the compassionate appointment of respondent no. 7 and to appoint the petitioner in his place on the basis of the fact that the father of the petitioner died in harness on the post of Government Teacher on 16.11.2010.
2. Learned counsel for the petitioner submits that the petitioner is the youngest son and respondent no. 7 is the eldest son of the deceased employee.
3. Learned counsel next submits that the respondent



no. 7 has obtained the appointment on the basis of forged consent letter and other documents and by concealing the fact that at the time of appointment, his wife was in service as a Block Teacher.

4. An inquiry was conducted by the Block Education Officer, Navkothi, in which it has been found that the respondent no. 7 has obtained the appointment by preparing forged documents and at the time of his compassionate appointment his wife was already employed.

5. The Block Education Officer vide his letter, dated 13.10.2014, directed the Programme Officer-cum-Nodal Officer, Public Governance Redressal Cell, Education Department, Begusarai, with the finding that the respondent no. 7 has obtained appointment by wrong means, as such, the Panchayat Employment Unit may take decision to cancel the appointment of the respondent no. 7 and to appoint other brothers after taking their consent in accordance with law.

6. On the other hand, learned counsel for the State submits that in so far as appointment of the respondent no. 7 is concerned, pursuant to the report submitted by the Block Education Officer, Navkothi, a letter has been forwarded to the Panchayat Employment Unit with the recommendation for



removal of respondent no. 7 from service in accordance with law.

7. However, the claim of the petitioner for his appointment in place of respondent no. 7 is not in consonance with the law relating to the benefits of appointment on the compassionate basis inasmuch as the compassionate appointment is not a vested right in favour of a person.

8. He next submits that another brother of the petitioner is already in government service and compassionate appointment cannot be claimed after a lapse of about 14 years from the date of death of employee.

9. I have heard learned counsel for the parties concerned.

10. The fact that the petitioner's father died on 16.11.2010 i.e. about 14 years back, is not disputed.

11. In the meanwhile, in the year 2014, the respondent no. 7 being eldest son of the deceased employee was appointed on compassionate basis as a Panchayat Teacher.

12. The Supreme Court, in the case of **Director of Treasuries in Karnataka and Anr. vs. V. Somyashree**, reported in **2021 (12) SCC 20**, has held that the compassionate appointment is an exception to general rule and no aspirant can



claim right to compassionate appointment.

13. In yet another judgment of **Umesh Kumar Nagpal vs. State of Haryana and Ors.**, reported in **1994 (4) SCC 138** in paragraph no. 2, the principles of compassionate appointment has been encapsulated in the following terms:-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in



harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual



categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

14. It is now well settled that as per the Rule, the



appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment or any other consideration is permissible.

15. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis.

16. The petitioner is claiming appointment after 14 years as a matter of right, which in my opinion is misconceived and no direction can be issued for appointment of petitioner on compassionate ground by this Court after a lapse of 14 years, when other family members are in Government services.

17. In the result, this writ application is, accordingly, dismissed.

(Anil Kumar Sinha, J)

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