

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13201 of 2024**

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Aditya Raj Son of Late Ram Lal Yadav Resident of Village- Poshan Sah Lane, Sakarullah Chak, P.S.-Kutubganj, District- Bhagalpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The District Magistrate, Munger, Bihar.
5. The Superintendent of Police, Munger, Bihar.
6. The Deputy Superintendent of Police (Headquarter), Munger, Bihar.
7. The Sub-Divisional Police Officer, Sadar, Munger, Bihar.

... .. Respondent/s

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**Appearance :**

|                      |   |                                          |
|----------------------|---|------------------------------------------|
| For the Petitioner/s | : | Mr.Anuj Kumar, Advocate                  |
|                      |   | Mr. Arun Kumar Prasad, Advocate          |
| For the Respondent/s | : | Ms. Vijaya Laxmi Srivastava, AC to SC 23 |

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**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL JUDGMENT**

**Date : 03-09-2024**

Heard Mr.Anuj Kumar along with Mr. Arun Kumar Prasad, learned counsels appearing on behalf of the petitioner and Ms. Vijaya Laxmi Srivastava, learned AC to SC 23 for the State.

2. Petitioner has *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“I. For quashing the part of memo no.2939 dated 08/08/2022 by which the candidature of the petitioner for compassionate appointment has been rejected on the sole ground that the brother of the petitioner is gainfully employed, with is in clear violation of the full bench judgment of this Hon’ble Court passed



in CWJC No.17143 of 2016 (Niraj Kumar Vs. the State of Bihar & Ors.) reported in 2018(2) PLJR 951.

II. For directing the respondents to consider the case of the petitioner in the light of full bench judgment passed in CWJC No.17143 of 2016 (Niraj Kumar Vs. the State of Bihar & Ors.) reported in 2018(2) PLJR 951 and judgment dated 16/11/2022 passed in CWJC No.1108 of 2020 by Hon'ble Mr. Justice Madhuresh Prasad in similar matter.

III. For any other relief for which the petitioner is entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that on the basis of the recommendation of the District Compassionate Committee, the application of the petitioner dated 18.06.2021 claiming for being appointed on compassionate ground after the death of his father during the Covid period on 29.04.2021, has been rejected on the ground that one of his brothers is gainfully employed. Learned counsel submitted that though the petitioner has not pleaded anywhere in the writ petition that his elder brother, who is employed in CRPF, is not providing financial assistance to the family who were solely dependent on their father, who is no more and family is in destitute, however, no assessment of family income was done subsequent to the death of father of the petitioner and non-consideration of the same is in complete violation of the law laid down by the Apex Court in the case of



**Umesh Kumar Nagpal v. State of Haryana and Others** reported in **(1994) 4 SCC 138**. Learned counsel further submitted that considering several decisions in regard to the fact that whether without arriving at a definite finding in respect of gainful employment of any one of the siblings and said brother or sister is providing all financial assistance to his family then only the claim can be rejected. Learned counsel further submitted that the object of compassionate appointment is to provide immediate financial support to the family. Learned counsel has further relied upon a Full Bench decision of this Court in the case of **Niraj Kumar Mallick V. the State of Bihar & Others**, reported in **2018(2) PLJR 951** in which the Full Bench after relying on several decisions of the Hon'ble Supreme Court has arrived at a finding that in case any or other siblings are in an employment by which they are unable to get sufficient money, so as to provide both ends meet to the dependent, then in that case, the decision of the District Compassionate Committee is faulted with unless and until clear finding in respect of the income of the siblings is held to be sufficient to sustain the dependent of the deceased who had died in harness. Learned counsel in these backgrounds and the settled principle of law submitted that the impugned order contained in



Memo No2939 dated 08.08.2022 is not sustainable.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that the petitioner has not pleaded anywhere in the writ petition or even in the affidavit sworn before the Executive Magistrate dated 23.02.2022 don't give any information, as to whether, the brother of the petitioner, who is gainfully employed in CRPF, is unable to sustain the dependent of the deceased and, as such, no interference is called for in respect of the decision taken by the District Compassionate Committee, in which name of the petitioner appears to be at Serial No.4, pursuant to which, *vide* order contained in Memo No2939 dated 08.08.2022, claim of the petitioner has been rejected on the ground that brother of the petitioner is gainfully employed.

5. Having considered the rival submissions made on behalf of the parties and upon perusal of the impugned order contained in Memo No2939 dated 08.08.2022, I find that there is a complete violation of non-consideration of the financial position of the family upon the death of the deceased employee soon thereafter by bringing on record the assessment made in respect of financial status in accordance with the law laid by the Apex Court in case of **Umesh Kumar Nagpal (Supra)** as well



as, the finding given by the Full Bench of this Court in case of **Niraj Kumar Mallick (Supra)** and, as such, I find the decision of the District Compassionate Committee dated 08.08.2022, so far as petitioner is concerned, is not sustainable.

6. The writ petition is, accordingly, allowed.

7. Interlocutory Application(s), if any, also stands disposed of.

**(Purnendu Singh, J)**

Sanjay/-

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| AFR/NAFR          | NAFR       |
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