

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21253 of 2021

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Niraj Kumar Son of Late Baleshwar Singh Resident of Village - Parasrampur,
Post - Parasrampur, P.S. Amnaur, District- Saran, Pin - 841401.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patan.
2. The District Magistrate, Saran, Chhapra.
3. The Deputy Collector, Establishment, Saran, Chhpara.
4. The Block Development Officer, Sadar Saran, Chhapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rohit Mishra, Advocate
For the State	:	Mr.Md. N. H. Khan (Sc1)
		Mr. Md. Irshad, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 24-04-2024 The present writ petition has been filed seeking the following reliefs:-

“(i) For quashing the part of the memo no.75 Mu/Estt. Chhapra dated 17.6.2021 to the extent; the claim of the petitioner for appointment on compassionate ground has been rejected by the District Compassionate Appointment Committee, Saran, Chhapra.

(ii) After setting aside the part of the aforesaid order/memo no.75 Mu/Estt. Chhapra dated 17.6.2021, concerned respondents be directed to consider and appoint the petitioner on compassionate ground, in the facts and circumstances of the present case.”

2. The learned counsel for the petitioner



submits that the case of the petitioner has been rejected by the District Compassionate Appointment Committee, Saran at Chapra, vide Minutes of Meeting dated 15.06.2021, as contained in Memo dated 17.06.2021 on the ground that elder son of the deceased, Sri Dhiraj Kumar is employed as Block Teacher.

3. At this juncture, the learned counsel for the petitioner has referred to a judgment rendered by the learned Full Bench of this Court in the case of ***Niraj Kumar Mallick vs. the State of Bihar & Ors.***, reported in ***2018 (2) PLJR 951***, paragraph no.49 whereof is reproduced hereinbelow:-

“49. 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.”

4. Thus, the learned counsel for the petitioner has submitted that it is incumbent upon the respondent to examine as to whether 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 subsistence/maintenance of the other dependents of the deceased government employee and in case, it is found that despite gainful employment of one of the dependents, he is not in a position to provide two ends meet to the other dependents, the authorities of the State shall be liable to consider the application of the other dependents for appointment on compassionate appointment.

5. *Per contra*, the learned counsel for the respondent-State has though submitted that the case of the petitioner for grant of compassionate appointment has been



rejected on the ground that his elder brother is in government service, however, he has not been able to deny the fact that the case of the petitioner is required to be examined in light of the aforesaid judgment rendered in the case of ***Niraj Kumar Mallick*** (supra).

6. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the District Compassionate Appointment Committee, Chapra, headed by the District Magistrate, Chapra, to examine the case of the petitioner for appointment on compassionate ground afresh, in light of the aforesaid judgment, rendered by the full Bench of this Court in the case of ***Niraj Kumar Mallick*** (supra) and take a final decision, within a period of six weeks of receipt/production of a copy of this order.

7. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

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