

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23465 of 2012

Md. Jawed Alam, S/O - Late Md. Umair, Resident Of Village P.O. - Parsadi
English, P.S. District - Arwal

... .. Petitioner/s

Versus

1. The Bihar State Road Transport Corporation,, Pariwahan Bhawan, Sultan Palace, Veerchand Patel Path, Patna – 800001, represented through its Administrator, the Bihar State Road Transport Corporation, Pariwahan Bhawan, Sultan Palace, Veerchand Patel Path, Patna-800001.
2. The Administrator , The Bihar State Road Transport Corporation, Pariwahan Bhawan, Sultan Palace, Veerchand Patel Path, Patha-800001.
3. The Compassionate Appointment Committee Of The Bihar State Road Transport Corporation, Represented Through Its Chief Of Administration, Pariwahan Bhawan, Sultan Palace, Veerchand Patel Path, Patna - 800001

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shri Prakash Srivastava, Advocate
For the Respondent/s : Mr.Prabhat Kumar Verma, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 02-07-2024 Petitioner has *inter alia* prayed for following reliefs

in the paragraphs No.1 of the writ petition:-

(I) To issue writ in the nature of certiorari for quashing of the order dated 12.11.012 bearing Officer Order No.632 communicated through the letter dated 12.11.2012 bearing Memo No.9708 passed in connection with St. Gen. Misc.-91/2012, by which the claim for appointment of the petitioner on compassionate ground has been rejected.

(ii) To issue writ in the nature of certiorari for quashing of the order dated 12.11.2012 bearing Officer Order No.632 communicated through the letter dated 12.11.2012 bearing Memo No.9708 passed in connection with ST. Gen. Misc.-91/2012, by which the claim for appointment of the petitioner on compassionate ground has been rejected in complete illegal, arbitrary and malafide manner.

(iii) To declare the order dated 12.11.2012 bearing Officer Order No.632 communicated through the letter dated 12.11.2012 bearing Memo No.9708 passed in connection with St. Gen. Misc. - 91/2012 is nothing but a



willful and deliberate defiance of the order passed by this Hon'ble Court in C.W.J.C.No.19002 of 2012.

(iv) To appoint the petitioner on compassionate ground as the father of the petitioner died on 03.03.2009 and despite of the fact that the petitioner, possessing the requisite qualification, applied, but the same was erroneously and arbitrarily not placed under the zone of consideration.

(v) Any other relief or reliefs.

2. The father of the petitioner had died in harness on 03.03.2009, while he was posted as Driver under headquarter Patna of the Road Transport Corporation and request of the petitioner for being considering for appointment on compassionate ground has been rejected on the ground that the Corporation is faced with financial crisis and petitioner had earlier filed CWJC No.19002 of 2012 for the similar relief as prayed for in the present writ petition, which was disposed of vide order dated 11.10.2012 with a direction to the petitioner to file a representation for redressal of his grievance before the Administrator of the Corporation. The representation of the petitioner was rejected by a speaking order dated 12.11.2012 and the same was communicated to the petitioner. It has also been clarified by the respondents in paragraph nos.10, 11 and 12 of the counter affidavit that petitioner cannot claim parity with petitioners of CWJC Nos.12242 of 2006 and 12493 of 2006 by which, this Court had directed the Corporation to reinstate the petitioners of the said writ petitions with effect from the date of their removal with a condition that they shall not be entitled for



salary for the interregnum period. The case of the petitioner is distinguishable considering the fact that petitioner's father died in the year 2009, while fathers of Manoj Kumar Mahato and Sri Vijay Kumar Singh, petitioners of CWJC No.12242 of 2006 and 12493 of 2006, had died in the year 1990 and subsequently between the year 1990 to 2009 also several employees died in harness but their dependents could not be given appointment on compassionate ground due to financial constraint faced by the Corporation. The law relating to consideration for being appointed on compassionate ground is not more *res intergra* as the matter has been considered by the Apex Court in the case of ***Umesh Kumar Nagpal v. State of Haryana and Others [(1994) 4 SCC 138]*** in the following terms (SCC pp. 139-40, Para 2) :

“2.... 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 dependents 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 dependents of the deceased who maybe 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.”

3.Consideration for being appointed on compassionate ground is not a right, however, considering the fact that during pendency of the writ petition the Corporation may have revived and can well sustain financial burden in considering the claim of the petitioner, if the petitioner fulfills all the criteria for being appointed on the post.

4. The writ petition is, accordingly, disposed of.

(Purnendu Singh, J)

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