

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16336 of 2024

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Sonu Kumar son of Late Jagdish Basfor, resident of Mohalla-Naya Jan Tola,
Chapra, Ward No.09, P.S.- Bhagwan Bazar, District-Saran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Bihar, Patna.
2. The Director, Urban Development and Housing Department, Bihar, Patna.
3. The Divisional Commissioner, Saran Division, Saran
4. The District Magistrate, Saran
5. The Municipal Commissioner, Nagar Nigam, Chapra
6. The Deputy Municipal Commissioner, Nagar Nigam Chapra
7. The Chief Councilor, Nagar Nigam Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Narsingh Tanti, Advocate.
For Nagar Nigam Chhapra:		Mr. Indu Bhushan, Advocate.
For the State	:	Dr. Md. Raisul Haque, SC-10.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 24-10-2024 Heard Mr. Narsingh Tanti, learned counsel appearing on behalf of the petitioner; Mr. Indu Bhushan, learned counsel appearing on behalf of the Nagar Nigam Chhapra and Dr. Md. Raisul Haque, learned SC-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 directed for issuance of an appropriate writ in the nature of Mandamus commanding the responsible respondents for a direction to appoint the petitioner on compassionate ground on any post at Chapra Nagar Nigam considering the representation dated 08.04.2024 on the very ground that the father of the petitioner Jagdish Basfor was permanent employee on the post of Sweeper and father of the



petitioner died in harness during service period on 19.03.2023 and after death of father of the petitioner, he has not any source of income and there is no any earning member in the family of the petitioner and due to premature death of the father of the petitioner entire family has been facing starvation.”

3. Learned counsel appearing on behalf of the petitioner informs that the application of the petitioner for being considered to be appointed on compassionate ground is pending since 08.04.2024, while his father had died in harness on 19.03.2023 while he was posted as sweeper. Learned counsel submits that petitioner is entitled to be considered for appointment on Class-III /Class-IV post, however, it has been informed by the petitioner that in garb of any circular of the Urban Development Department, the District Magistrate and the Municipal Commissioner, Nagar Nigam, Chhapra are not considering the case of the petitioner. Learned counsel further submitted that as a result of pre-mature death of the father of the petitioner, the entire family of the petitioner is facing starvation as his father was the only bread earner of the family and they are not coping with even day to day expenses and able to sustain themselves. Learned counsel further submitted that the law in respect of compassionate appointment is well settled in the case of **Umesh Kumar Nagpal v. State of Haryana and Others**, reported in (1994) 4 SCC 138; **The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.** passed in Civil Appeal nos.



8842-8855 of 2022 and Jagdish Prasad v. State of Bihar
reported in **(1996) 1 SCC 301.**

4. 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.

5. 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.

6. Considering the submission made on behalf of the petitioner and the law laid down by the Apex Court in aforementioned cases, the District Magistrate concerned and the Municipal Commissioner - respondent no.5 must immediately take up the case of the petitioner for considering his appointment on compassionate ground on any post to which he is entitled for forthwith.

7. The writ petition stands disposed of.

(Purnendu Singh, J)

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