

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1242 of 2025

Happy Roshan, Son of Late Ramakant Prasad Resident of Mohalla and P.O.-
Mathurapur Ward No. 06, P.S.- Warisnagar District Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Vikash Bhawan, Patna.
3. Jai Prakash University, Chapra, through its Registrar
4. The Vice-Chancellor, Jai Prakash University, Chapra.
5. The Registrar, Jai Prakash University, Chapra.
6. The Principal, D.A.V. Post Graduate College, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shubh Narain Singh, Advocate.
For the State	:	Mr. Kamlesh Kishore, AC to SC-12.
For the University	:	Mr. Bindhyachal Rai, Advocate.
		Mr. Manoj Kumar Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 28-01-2025

Heard Mr. Shubh Narain Singh, learned counsel appearing on behalf of the petitioner; Mr. Kamlesh Kishore, learned AC to SC-12 for the State and Mr. Bindhyachal Rai, learned counsel along with Mr. Manoj Kumar Singh, learned counsel appearing on behalf of the Jai Prakash University, Chhapra.

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 is an application for issuance of appropriate writ(s), direction(s) to the Respondents to appoint the petitioner on appropriate post on the basis of compassionate ground because his father who was posted and working as Associate Professor at D.A.V. Post Graduate College, Siwan under J.P. University, Chapra had died in service period leaving behind his one son and one daughter along with wife.”

3. The father of the petitioner late Ramakant Prasad was appointed as Lecturer in the Department of Mathematics in Sakra College, Sakra (Dholi) in the District of Muzaffarpur under BRA Bihar University, Muzaffarpur. Thereafter, he was shifted to D.A.V. College, Siwan under the Jai Prakash University, Chapra. All of a sudden, the father of the petitioner died in harness on 30.10.2018, leaving behind one son, one daughter and his wife. The petitioner (son of late Ramakant Prasad) applied for compassionate appointment on Class-III post before the respondent no.6, which was forwarded to the respondent no.5 on 29.06.2019. Thereafter, the petitioner made several communications to the concerned authorities, but till date no action has been taken.

4. Learned counsel appearing on behalf of the petitioner submitted that the father of the petitioner late Ramakant Prasad had died in harness on 30.10.2018 while he was working as Associate Professor in D.A.V. College, Siwan



leaving behind one son, one daughter and wife. Thereafter, the petitioner (son of late Ramakant Prasad) had filled up an application along with the necessary papers and affidavits sworn by the family members which was forwarded to the Registrar of the University, but no action has been taken till date. Learned counsel further submitted that the logic behind the compassionate appointment is to provide immediate help to the family of the deceased employee with the pious wishes that the family will mitigate the hardship by virtue of the sudden death of bread earner and the petitioner had made several requests to the concerned authority with the high expectation that the issue may be examined in detail and the claim may be adjudicated finally within a reasonable time, however, even after lapse of long time, the claim has not been resolved till date, rather it is kept pending till date intentionally to frustrate the right accrued to the petitioner.

5. *Per contra*, Learned counsel appearing on behalf of the respondents submitted that the case of petitioner was considered by the University but as the mother of the petitioner is working as Niyojit Teacher in Primary School in District Siwan, a letter dated 20.12.2019 was communicated to the Additional Secretary, General Administration Department,



Government of Bihar, Patna seeking opinion whether the petitioner is eligible for compassionate appoint or not.

6. Heard the parties.

7. 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 Paragrpah 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.

8. 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.

9. In case of ***State of U.P. v. Paras Nath***, reported in **(1998) 2 SCC 412**, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

10. Based on the above principles and the pleadings



made in the writ petition, the Registrar of the Jai Prakash University, Chhapra is directed to take appropriate action in respect of the petitioner and consider the case of the petitioner, who had immediately applied for Compassionate appointment by assessing the income of the family on the date of the death of the deceased employee, in accordance with the law.

11. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.01.2025
Transmission Date	NA

