

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1404 of 2022

Raj Kamal Kumar son of Ram Narayan Ram, resident of Village and P.O.-
Sakala Bazar, Police Station and Anchal-Karakat, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Special), Government of Bihar, Patna.
2. The Collector, District-Rohtas at Sasaram.
3. The Superintendent of Police, District-Rohtas at Sasaram.
4. The Sub-divisional Officer, Sasarma, Rohtas.
5. The Deputy Superintendent of Police, District-Rohtas.
6. The Anchal Adhikari, Anchal-Karakat, District-Rohtas.
7. The Officer-in-charge, P.S. Karakat, District-Rohtas.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Kanhaiya Rao, Advocate Mr. Ravi Shankar Sahay, Advocate Mr. Rakesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Manish Kumar (GP-4) Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 22-12-2025

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed seeking



a direction from this Court to appoint the petitioner on compassionate grounds to the post of Chaukidar, as his grandfather died while he was in active service, and for any other relief(s) in favour of the petitioner as deemed suitable under the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the grandfather of the petitioner worked as a Chaukidar under Karakat Police Station, Sub-Division Bikramganj, District Rohtas, and died on 19.07.2001 while he was in active service. He further submits that the widow and the son of the deceased were not in a position to be appointed because of their age and illness, respectively. He further submits that the father of the petitioner was suffering from a chronic disease which was incurable in nature. He further submits that the petitioner applied on compassionate grounds for the post well within time in the year 2009 (in the petition it is written “in the year 2002”, but learned counsel submits that due to an inadvertent typing mistake, 2009 has wrongly been typed as 2002). He further submits that the petitioner possessed the necessary qualifications and eligibility for the said post. He further submits that the petitioner received a letter from the office of the Collectorate, Sasaram, in the year 2011 intimating that his



candidature had been turned down as he happened to be the grandson of the deceased Chaukidar.

4. Counsel further submits that Annexure-1 is the letter No. 1683 dated 19.11.1994 issued by the Home Department, in which Clause 3 indicates that a *Nati* (maternal grandson) is also entitled to be appointed on compassionate grounds if the situation arises. He further submits that the said circular has not been considered at all, and the authority concerned has wrongly rejected the claim of the petitioner. He further submits that the word *Nati* has been used in common parlance for both paternal and maternal grandsons. Therefore, he submits that a positive interpretation may be drawn, and Annexure-4, by which the claim of the petitioner for compassionate appointment has been rejected, should be set aside.

5. Learned counsel for the State, on the other hand, submits that according to the Government circular, the application for compassionate appointment has to be made within five years. However, in the present case, admittedly, the death occurred in the year 2001, and the request for compassionate appointment was made in the year 2009, i.e., after a lapse of about eight years. He further submits that the



main contention of the petitioner relates to non-consideration of Annexure-1, i.e., Letter No. 1683 of 1994. He further submits that the said letter, on which the petitioner is relying, has already been removed, and in its place, a new circular has been issued by the Home Department, Government of Bihar, vide Letter No. 4668 dated 24.06.2011.

6. He further submits that paragraph 4 of the said letter categorically indicates that Letter No. 1683 dated 19.11.1994, on which the petitioner is relying, has already been removed, and therefore, there is no question of entertaining any relief for the present petitioner.

7. In light of the submissions made above, this Court finds that the order against which the petitioner is aggrieved has not been challenged by the writ petitioner in the prayer portion. It also transpires to this Court that the petitioner has relied on Letter No. 1683 dated 19.11.1994, in which compassionate appointment for a *Nati* has been categorically indicated in Clause 3 of the said letter.

8. For proper adjudication, it is necessary to place on record the latest Letter No. 4668 dated 24.06.2011, which is as follows:-



बिहार सरकार, गृह (आरक्षी) विभाग, संकल्प, पत्र सं-1/चौदका-90-91/2001 गृ-आ-4688, दिनांक: 24 जून, 2011 -गृह (आरक्षी) विभागीय आदेशना सं-1/चौदका-90-01/2001 गृ-आ-9339, दिनांक 25.08.2006 द्वारा निर्गत नियमावली में अनुकम्पा के आधार पर नियुक्ति संबंधी आश्रित परिवार को परिभाषित नहीं किया गया है। कार्मिक एवं प्रशासनिक सुधार विभाग, बिहार, पटना (तदेन) के ज्ञाप सं-3/सो-2-2067/90 का दिनांक 05.10.1991 द्वारा जारी परिपत्र की कड़ीका 1 (म) में मृत सरकारी सेवकों के आश्रितों की निर्धारित सूची के अनुसार मृत सेवकों की पत्नी/पुत्र/अविवाहित पुत्री तथा पुत्र की विधवा पत्नी एवं कार्मिक एवं प्रशासनिक सुधार विभाग, बिहार, पटना (तदेन) के परिपत्र सं-3/सो-02-03/2004 का-512, दिनांक 12.05.2006 की कड़ीका-4 में दत्तक पुत्र एवं दत्तक अविवाहित पुत्री भी मृत सरकारी सेवकों के आश्रितों की सूची में आते हैं। कार्यक्रम में तत्कालीन पुत्रों को कुटुंबश्रुति के साथ अविवाहित सरकारी सेवकों की स्थिति में छोटी भाई अविवाहित छोटी बहन एवं विधवा माँ को आश्रित की श्रेणी में लाया गया है।

(2) गृह (आरक्षी) विभाग के परिपत्र सं-1683 दि- 19.11.1994 द्वारा आश्रितों में अगर बेटा-बेटी न हो तो उनके नामों में से एक को चयन लेकर अग्रजपुत्रा रूप भतीजा या नाती को नियुक्त करने का प्रावधान किया गया था। इसके अतिरिक्त परिपत्र सं-11287 दिनांक 20.12.1995 द्वारा मृत दत्तक पुत्र के आश्रितों में विधवा पत्नी/पुत्र-पुत्री या भतीजा या भाई या नाती को भी अनुकम्पा के आधार पर चौकीदार के पद पर नियुक्त करने का प्रावधान किया गया तथा परिपत्र सं-10129 दिनांक 06.11.1991 द्वारा चौकीदार की मृत्यु के फलस्वरूप रिक्त पद पर चौकीदार को पत्नी की अनुपस्थिति पर मृतक के पुत्र या भाई अथवा परिवार के किसी अन्य सदस्य को अनुकम्पा के आधार पर चौकीदार के पद पर नियुक्ति संबंधी प्रावधान सभी नियमों एवं प्रक्रियाओं को सिंगल करते हुए किया गया।

(3) दिनांक 01.01.1990 के प्रभाव से चौकीदार/दफ्तार को सरकारी सेवकों की मान्यता प्रदान की गई है। सरकारी सेवकों के संबंध में नियुक्ति/अनुकम्पा के आधार पर नियुक्ति के संबंध में सामान्य प्रशासन विभाग के द्वारा प्रतिपादित नियम ही सभी विभागों पर समान रूप से प्रभावी होते हैं और इन संबंध में सामान्य प्रशासन विभाग (तदेन कार्मिक एवं प्रशासनिक सुधार विभाग) द्वारा निर्गत परिपत्र/निर्गत किये जाने वाले परिपत्र ही सभी विभागों पर समान रूप से प्रभावी होने चाहिए एवं इन परिपत्रों द्वारा प्रतिपादित नियमों का ही अनुपालन करना समीचीन होगा। ऐसी स्थिति में चौकीदार/दफ्तार सहित सभी मृत सरकारी सेवकों के आश्रितों के लिए अनुकम्पा के आधार पर नियुक्ति एवं इस नियुक्ति के लिए आश्रितों की सूची सामान्य प्रशासन विभाग द्वारा निर्धारित सूची के ही समान होना निष्पत्तियुक्त होगा।

(4) उक्त अतिरिक्त तथ्यों के अलावा गृह (आरक्षी) विभागीय परिपत्र सं-9/ले-207/1991 गृ-आ-10129 दि- 06.11.1991, 9/ले-208/1994 गृ-आ-1683 दि- 19.11.1994 तथा सं-9/ले-207/1994 गृ-आ-11287 दि- 20.12.1995 को सम्यक् विचारोपरांत सरकार ने इस संकल्प के निर्गत होने की तिथि के प्रभाव से विनियमित करने का निर्णय लिया है। वह भी निर्णय लिया गया है कि इस संकल्प के निर्गत होने के पूर्व तक उपर्युक्त परिपत्रों के प्रभावी रहने की अवधि में अनुकम्पा के आधार पर नियुक्त सभी चौकीदार/दफ्तार विधिवत रूप से सरकारी सेवा में अनुकम्पा

अनुकम्पा के आधार पर नियुक्ति संबंधी

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के आधार पर नियुक्त माने जाएंगे और बिना ऐसे मामलों को इस आधार पर अस्वीकृत किया गया है कि कार्मिक एवं प्रशासनिक सुधार विभाग के परिपत्र से जानकारित नहीं है उन मामलों में पूर्व में निर्गत यह विभागीय परिपत्रों के आधार पर बिचार किया जा सकेगा।

(5) इस संकल्प पर सामान्य प्रशासन विभाग की सहमति प्राप्त है।



9. After going through the records, particularly the factual matrix, it transpires to this Court that, as per the pleadings, the petitioner is the grandson of the deceased, whose grandfather was in service in 2001 and died that year. The application for compassionate appointment was filed in 2009,

and his claim was rejected in 2011, with communication of the same also made in 2011. Thereafter, the petitioner preferred a fresh representation, on which a decision was taken in 2020, annexed as Annexure-4. It also transpires from the record that at the time of the grandfather's death in 2001, the petitioner was a minor and became major only in 2008, after which he filed the request for compassionate appointment.

10. In any view of the matter, the circular of 2011 is very clear, and in the opinion of this Court, it cannot be ignored. According to this circular, on the day when the petitioner's case was under consideration before the Appointment Committee, the circular of 1994 was no longer in existence. In addition, the cause of action had already arisen in 2011, even then, the petitioner moved only in 2022, after a lapse of about 11 years.

11. In this regard, the case of ***State of West Bengal vs. Debabrata Tiwari***, reported in ***AIR 2023 SC 1467***, is very clear, in which the Hon'ble Supreme Court held that since the sense of immediacy is lost, consideration of the claim and grant of relief in such a case would be improper. This judgment relates to compassionate appointment. It is for this reason this Court is not inclined to grant any relief.



12. Accordingly, the present writ petition is hereby
dismissed.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
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