

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2582 of 2019

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Mamta Devi, Wife of Late Tuntun Mahto, Resident of Chitragupt Nagar,
Pokharia, P.S. Begusarai Town, District- Begusarai. Presently residing at
Village- Lakho, P.S. Begusarai Muffasil, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary-cum- Legal Remembrancer, Law Department, Government of Bihar, Patna.
2. The Secretary-cum- Legal Remembrancer, Law Department, Government of Bihar, Patna.
3. The District Judge, Begusarai, Civil Court.
4. The Judge-in- Charge, Administration, Begusarai, Civil Court.
5. The Registrar, Civil Court, Begusarai.
6. The Registrar General, Patna High Court, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pratik Kumar Sinha, Advocate
For the Respondent/s : Mr. Sanjeev Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 23-06-2025

Heard the parties.

2. The petitioner is claiming herself to be second wife of the deceased employee, who died in harness on 29.10.2023. It is submitted that as the first wife of the deceased employee was blessed with two sons whereas this petitioner blessed with a son and a daughter; a dispute arose with regard to grant of benefit of compassionate appointment between the son of the first wife and the second wife. It is the admitted position that the second son of the first wife, namely, Nitesh Kumar was employed in the Indian Army.



3. In order to give quietus to the dispute, the petitioner approached the competent court from where she got a succession certificate. In the meanwhile, the son of the first wife, Niraj Kumar filed a writ petition bearing C.W.J.C. No.4119 of 2006, wherein the petitioner was also a party respondent. In the afore-noted writ petition, a Bench of this Court directed the District Judge, Begusarai to hold enquiry and after hearing the rival parties, opine as to whether there is need for such appointment on compassionate ground to any of dependent member of the deceased family. The Court also directed the petitioner to participate in the enquiry.

4. The petitioner appeared before the District Judge, Begusarai; however, nothing was disclosed as to what action has been taken in pursuant to the order of this Court in C.W.J.C. No.4119 of 2006. While the petitioner was awaiting communication from the District Judge, Begusarai, in the meanwhile, the son of the first wife of the deceased employee died. The petitioner brought this fact to the authorities concerned and when nothing was done, she approached this Court by filing C.W.J.C. No.20834 of 2013. The matter was finally came to be disposed off on 04.07.2018 with an observation that the writ jurisdiction is not proper forum for ventilating such grievance as on earlier occasion this Court has



already issued directions which *prima facie* appears not to have been carried out. This led to filing of the M.J.C. No. 2852 of 2018 for compliance of the order of this Court passed in C.W.J.C. No.4119 of 2006. In the said proceeding, the petitioner came to know that the claim for compassionate appointment has already been rejected on 23.07.2011 on the ground that she is receiving a monthly family pension of Rs.6000/-. In the aforesaid premise, the petitioner preferred the present writ petition.

5. Learned Advocate for the petitioner referring to the gamut of the facts has further set forth his submission that there is delay and laches on the part of the respondent authorities and, as such, in no circumstances, the petitioner can be blamed. The petitioner has all along been pursuing her remedy before all the authorities concerned, especially before the District Judge, Begusarai but the decision dated 23.07.2011 has never been communicated and, as such, the delay has occurred to approach this Court.

6. It is further contended that this Court by the order passed in M.J.C. No.2852 of 2018 has made it clear that in view of the admitted position that the order dated 23.07.2011 was not communicated to the petitioner, the petitioner need not apprehend that any question of limitation will be raised against



her by the opposite parties in any proceeding. It is lastly contended that the claim of the petitioner was rejected on a ground which was not available to the respondent authorities that she was all along getting pension. In the case of **Canra Bank and Others v. M. Mahesh Kumar and Others [Civil Appeal Nos.260, 266 and 267/2008]**, the Apex Court has crystallized that mere getting family pension and obtaining the terminal benefit is of no consequence in considering the application for compassionate appointment. Hence, apart from the impugned order being wholly illegal and arbitrary, there is no legal impediment to extend compassionate appointment in favour of the petitioner.

7. On the other hand, learned Advocate for the respondents submitted that the very object of compassionate appointment is to give immediate succor to the bereaved family, whose bread-earner died in harness. In the present case, the husband of the petitioner died in harness long back on 29.10.2003 and the present writ petition came to be filed in the year 2019 and now the very object of compassionate appointment stands defeated. Reliance has also been placed on a decision rendered by the Apex Court in the case of **Umesh Kumar Nagpal v. State of Haryana and Others [(1994) 4 SCC 138]**.



8. It is the contention of the learned Advocate for the respondents that mere filing of the application for compassionate appointment would not suffice, the financial stability in all the circumstances is required to be looked into. All the more, the impugned order also reflects that the petitioner was the third wife of Late Tuntun Mahto, and the entire facts have never been disclosed even before the earlier round of litigation.

9. Having considered the submissions set forth by the learned Advocate for the respective parties, this Court without examine the legality of the impugned order, *prima facie*, finds that on account of lapse of more than two decades, the very object of compassionate appointment stands defeated.

10. It is the settled proposition of law that “The Compassionate appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because



of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14” [vide: *State of J.& K and others vs. Sajad Ahmed Mir, (2006) 5 SCC 766*].

11. There is a consistent view taken by the Apex Court in enumerable occasions that that compassionate employment cannot be claimed as a matter of right, as it is not a vested right. The Court has been cautioned that it should not stretch the provision by liberal interpretation beyond permissible limits on humanitarian grounds. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

12. An appointment on compassionate ground made many years after the death/incapacitation of employee or without due consideration of financial resource available to the dependent of the deceased/incapacitated employee would be directly in conflict with Articles 14 and 16 of the Constitution of India [vide *National Institute of Technology v. Niraj Kumar Singh, [(2007) 2 SCC 481]*

13. In view of the settled proposition of law as



discussed hereinabove, this Court does not find any reason or occasion to interfere in the present writ petition. Accordingly, the present writ petition stands dismissed.

(Harish Kumar, J)

rohit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25-06-2025
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