

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4717 of 2019

Chandan Kumar Mishra, Son of Late Mithilesh Kumar Mishra @ Mithilesh Mishra, Resident of Village- Barka Rajpur, P.S.- Simri, District- Buxar, Bihar.
... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
3. The Secretary, Home Department, Government of Bihar, Patna.
4. The Inspector General of Police, Welfare, Government of Bihar, Patna.
5. The District Compassionate Committee, Rohtas through the District Magistrate, Rohtas (Sasaram).
6. The District Magistrate, Rohtas, Bihar.
7. The Deputy Collector (Establishment), Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Brij Mohan Kumar Singh, Adv.
For the Respondent/s	:	Mr.Md.N.H.Kha SC 1 with Ms. Babita Kumari, AC to SC 1

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 30-04-2025

Heard the parties.

2. The petitioner is aggrieved with the decision of the District Compassionate Committee, Rohtas at Sasaram, so far it relates to the petitioner, as contained in Memo No. 1073 dated 26.11.2014, whereby the District Compassionate Committee rejected the application of the petitioner for compassionate appointment.

3. Learned Advocate for the petitioner contended that on 01.11.2001 the father of the petitioner, who was working on the post of constable in Police Station, Nokha, proceeded to his



office but did not return. In this regard, a news item was published in the daily news paper regarding missing of the constable. The mother of the petitioner approached the authorities concerned and subsequent thereto an FIR bearing Nokha P.S. Case No. 52 of 2002 came to be registered regarding disappearance of the father of the petitioner. Learned Advocate further contended that since the petitioner, who was minor at the relevant time and no heed was paid by the authorities concerned to extend any benefit, finally the mother of the petitioner approached before the Judicial Magistrate at Buxar, seeking a declaration to hold the father of the petitioner as dead under Section 108 of the Indian Evidence Act. The learned Sub Divisional Magistrate, Buxar vide order dated 01.10.2009 declared the father of the petitioner as dead. Subsequent thereto, the mother of the petitioner approached before the authorities concerned and death-cum retiral benefits has been accorded.

4. Notwithstanding the aforesaid facts, the application filed on behalf of the petitioner for his compassionate appointment as a child constable, was not considered, the petitioner approached all the authorities concerned and finally by the order as contained in Memo No. 1251 dated 18.04.2012 the application of the petitioner for his appointment as child



Constable came to be rejected, compelling the petitioner to approach this Court in CWJC No. 345 of 2014. The writ petition finally came to be disposed of with a direction to the Superintendent of Police, Rohtas at Sasaram to see to it that the case of the petitioner for appointment on compassionate ground is placed in the meeting of the District Compassionate Committee within three months. In pursuant to the order of this Court, the matter came to be placed before the District Compassionate Committee, however it did not find any favour and the application of the petitioner stood rejected in the light of the departmental letter No. 281 dated 01.02.2006 as also letter No. 7146 dated 31.10.2008.

5. Learned Advocate for the petitioner while assailing the order vehemently contended that the very rejection of the application of the petitioner for his compassionate appointment is wholly unjustified and unreasonable; moreover there is no delay and laches on the part of the petitioner. It is the respondent authorities who did not consider the claim of the petitioner for appointment as Child Constable and compelled the petitioner and her hapless mother to get a decree from the competent court declaring his father as dead person in terms of Section 108 of the Indian Evidence Act, 1908.



6. A counter affidavit has been filed on behalf of the respondent no. 6. Mr. Md. M. H. Khan, learned SC -1 has submitted that the very object of the compassionate appointment is to give immediate succor to the bereft family whose bread earner died in harness untimely. The facts of the case clearly suggest that the father of the petitioner became traceless long back in the year 2001 and moreover 24 years have elapsed and, as such, in no circumstances, the case of the petitioner is found fit for consideration of his appointment on compassionate ground. It is further contended that in pursuant to the order of this Court, in the earlier round of litigation the claim of the petitioner was again considered by the District Compassionate Committee, however, on being found no merit it was again rejected and the information has been given to the Superintendent of Police, Rohtas. It is also contended that since the petitioner has already attained the age of 18 years on 15.01.2012 and, as such, in no circumstances, the petitioner can be appointed against the post of child constable, on compassionate ground.

7. Having considered the submissions advanced on behalf of the learned Advocates for the respective parties and taking note of the fact that the father of the petitioner became



traceless long back in the year 2001 and the date on which the claim of the petitioner was duly considered, he had already attained the age of majority, thus, this Court does not find any infirmity in the impugned order rejecting the claim of the petitioner for his appointment on compassionate ground to the post of child constable.

8. 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].

9. Accordingly, the writ petition *sans* any merit stands rejected.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.05.2025
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