

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5500 of 2020

Sanjit Kumar alias Sanjiv Kumar, son of Late Shankar Prasad, resident of Bhagalpur, Devi Asthan, Post Office and Police Station- Bodh Gaya, District- Gaya.

... .. Petitioner/s

Versus

1. The Chief of Administration, Bihar State Road Transport Corporation Pariwahan Bhawan, patna.
2. The Managing Director, Bihar State Road Transport Corporation, Patna.
3. The Regional Manager, Bihar State Road Transport Corporation, Gaya.
4. The Divisional Manager, Bihar State Road Transport Corporation.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nirmal Kumar Sinha, Advocate
For the Respondent/s : Mr. Saroj Sharma, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

8 16-06-2025 Heard Mr. Nirmal Kumar Sinha, learned Advocate for the petitioner and Mr. Saroj Sharma, learned Advocate for the Bihar State Road Transport Corporation.

2. The short facts which led to the filing of the present writ petition are in narrow compass. The mother of the petitioner, had been serving the Bihar State Road Transport Corporation (hereinafter referred to as 'Corporation') on a Class IV post, died in harness on 01.08.2004. On account of unfortunate demise of the erstwhile employee, the petitioner who had already passed Intermediate Examination in the year 1993 in Second Division, has submitted his application for compassionate appointment along with No Objection Certificate



duly affidavited by other family members. The Divisional Manager, Gaya of the Corporation recommended the application of the petitioner and sent it to the Chief of the Corporation vide his letter no 103 dated 16.04.2005. The petitioner has been running from pillar to post and left no stone unturned, but representation for his compassionate appointment could not be disposed off. In the aforesaid premise, left with no option the petitioner approached this Court by filing the present writ petition.

3. While the matter was pending consideration, this Court taking note of the fact that the very object of providing compassionate appointment to family in harness is defeated on behalf of the respondent directed for personal appearance of the Chief Administration of the Corporation vide its order dated 08.12.2021. The representation of the petitioner was duly considered and finally it came to be rejected vide order dated 10.12.2021, *inter alia* on the ground since 1984 the Corporation had not recruited a single person, so also on compassionate ground with reference to financial constraint in the Corporation.

4. The Court on being found the reason of rejection not quite satisfactory, directed for filing of the supplementary counter affidavit and accordingly supplementary counter



affidavit as well as second supplementary counter affidavit have been filed.

5. Learned Advocate for the petitioner while pressing the present application has submitted that there is no laches on the part of the petitioner, inasmuch as, he immediately filed his application for compassionate appointment on account of untimely death of his mother, long back in the year 2004 itself, but it is the respondent Corporation who sat tight over the matter and due to the aforesaid fact, the petitioner has been subjected to serious prejudice.

6. The act of the respondent causing delay in consideration of the claim of the petitioner clearly defeated the very object of the compassionate appointment and in no circumstances, the petitioner can be held accountable for this. It is not the case of the respondent that there is any delay on the part of the petitioner, rather he has been bonafidely perusing his entitlement in terms with the scheme of compassionate appointment as formulated under the Corporation.

7. Dispelling the aforesaid contention, learned Advocate for the Corporation taking this Court through the averments made in the supplementary counter affidavit has contended that the materials available on record clearly suggest



that the Corporation has been facing acute financial crisis ever since past almost three decades, all regular appointments and compassionate appointments have been stopped. The issue relating to claim of compassionate appointment in the Corporation had come up for consideration in various other matters and taking note of the financial crisis being faced by the Corporation, the claims were disallowed. One of the decision passed in C.W.J.C. No. 13004 of 2002 has been placed on record.

8. It is further contended that the Corporation vide different letters as noted in paragraph no. 4 of the second supplementary counter affidavit circulated to all the Officers and Division of the Corporation intimating the decision of the Corporation not to extend appointment on compassionate ground in view of precarious financial condition of the Corporation. The State Government accepted the position has never issued any instruction or direction to the Corporation contrary to the decision taken by the Corporation. It is lastly contended that the claim of the petitioner was duly considered and taking note of the aforesaid facts, it came to be rejected.

9. This Court has anxiously heard the learned Advocate for the respective parties and also gone through the



materials available on record. The record clearly suggest that the financial condition of the respondent Corporation is bad and they are unable to meet both ends. This Court has considered the aforesaid facts in different matters; and even under the prevailing condition at present the Corporation is not in a position to meet the current liabilities of its existing employees entirely out of its own income. The identical issue has come up for consideration before this Court in the case of ***Mahboob Alam & Anr. vs. Managing Director, Bihar State Road Transport Corporation & Anr.*** (C.W.J.C. No. 13004 of 2002) wherein the Court after considering the precarious condition of the Corporation has held as follows:-

“After hearing learned counsel for the parties and taking into consideration the totality of the circumstances specially the fact that the respondents’ financial condition is bad and they are unable to meet both ends, I do not think that petitioner deserves an order in his favour. In fact it is not question of one appointment but one single appointment is likely to open the flood gate and everybody will say that if Mr. X is appointed then everybody should be appointed. The respondents, however, shall consider the case of the petitioner’s appointment if their position improves and they start making appointment on compassionate ground. With the liberty aforesaid the petition is dismissed on the merits.”



10. Similar issue has also come up for consideration before this Court in the case of ***Gunjan Kumar Singh vs. The State of Bihar & Ors.*** (C.W.J.C. No. 7535 of 2019) wherein this Court having considered the aspect of precarious condition of BSRTC disallowing any compassionate appointment to the dependents of any deceased employee; negated the claim of the petitioner. The Court while dismissing the writ petition has also taken note of the fact that the committee constituted pursuant to the direction of the Hon'ble Apex Court in Civil Appeal No. 7290 of 1994 (***The State of Bihar & Ors. vs. Surajdeo Singh & Ors.***) had also submitted a report regarding worsen economical condition of BSRTC.

11. It would also be worth benefitting to encapsulate herein, the settled proposition of law as ruled in the case of ***State of Jammu & Kashmir & Ors. vs. Sajjad Ahmed Mir,*** (2006) 5 SCC 766;

“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."

12. In view of the discussions made hereinabove and the settled position of law, this Court does not find any merit in the writ petition.

13. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

supratim/-

U			
---	--	--	--

