

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17527 of 2021

=====

Manoj Kumar Yadav Son of Late Sri Krishna Yadav, Resident of Village-
Pipra Uttar Patti, P.S. Khanpur, P.O. Pipra Uttarpatti, District- Deoria, U.P.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The District Compassionate Appointment Committee, Siwan, through its Chairman.
3. The District Magistrate-Cum-Chairman, District- Appointment Committee, Siwan.
4. The District Education Officer, Siwan, District- Siwan.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate. Mr. Brisketu Sharan Pandey, Advocate.
For the Respondent/s	:	Mr. Madhaw Pd. Yadaw (Gp23)

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 03-07-2025 Heard Mr. Tej Bahadur Singh, learned senior counsel

along with Mr. Brisketu Sharan Pandey, learned counsel

appearing on behalf of the petitioner and Mr. Madhaw Prasad

Yadaw, learned AC to GP-23 for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, inter alia, following relief(s), which is

reproduced hereinafter:-

*“That the present writ application is being filed
for issuing appropriate writ/writs, direction/directions
including the writ of mandamus directing the to direct the
District Compassionate Appointment Committee, Siwan to
consider the case of the petitioner afresh for appointment
against Regular Government Class-III/IV post on
compassionate ground as father of petitioner has died in
harness while being on duty from the post of Assistant
Teacher at Ramawtar Singh High School, Bhawraipur,
Siwan.*

*Further the respondents be directed to consider
the case of the petitioner sympathetically so that the*



petitioner can be appointed on compassionate ground against any regular post in the District of Siwan.

Further the Hon'ble Court may pass any order / orders, direction / directions which it may deem fit within the facts and circumstances of the case and within the ends of equity justice and good conscience."

3. The father of the petitioner died in harness on 28.10.2016 while serving as Assistant Teacher at Ramawtar Singh High School, Bhawraipur, Siwan. The petitioner applied for his compassionate appointment to meet immediate need of the family on 06.01.2017 in requisite form. The matter has been kept pending since then. Learned counsel has placed reliance on the judgment of the Apex Court rendered in the case of ***Secretary to Government Department of Education (Primary) and others Vs. Bheemesh Alias Bheemappa***, reported in (2021) 20 SCC 707.

4. No counter affidavit has been filed till date as to whether the District Compassionate Appointment Committee has taken any step to consider the grievance of the petitioner in light of several circulars relating to compassionate appointment.

5. Considering the information contained in the writ petition that the application of the petitioner for considering him to be appointed on compassionate ground is pending till date, the matter was adjourned at the request of the State counsel who wanted to seek instruction, but till date the State has not been



able to inform, as to whether, the District Compassionate Appointment Committee has taken any step to consider the representation of the petitioner placed before it.

6. 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.

7. 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.

8. 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 Paragraph No. 7.2 which has been



taken into consideration in the subsequent decision in the case of *The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.* passed in *Civil Appeal nos. 8842-8855 of 2022*. The Apex Court laid down following principles to be adopted for considering 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.



9. Based on the above principles and the pleadings made in the writ petition, the District Education Officer, Siwan is directed to place all the relevant particulars relating to the deceased employee, namely, late Krishna Yadav who had died in harness on 28.10.2016 while serving as Assistant Teacher in Ramawtar Singh High School, Bhawrajpur, Siwan and application of the petitioner through the District Magistrate for considering the grievance of the petitioner before the District Compassionate Appointment Committee which is pending since long.

10. Appropriate decision should be taken in the case of the petitioner in light of the law laid down by the Apex Court considering the pathetic economic condition of the petitioner who has claimed that he is hand to mouth without any further delay within a period of six weeks by the District Compassionate Appointment Committee and communicate it to the appropriate authority expeditiously.

11. With the above observation/direction, the writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

U			
---	--	--	--

