

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9941 of 2016

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Shyam Kumar, Son of Late Rajendra Prasad Yadav, Aged about 26 Years,
Resident of Village- Shadipur, Near Bhudan Office, P.O.- Munger, P.S.-
Kotwali, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Chief Secretary, Govt. of Bihar, Patna.
2. The Director, Department of Animal Husbandry, Govt. of Bihar, Patna.
3. The District Magistrate Cum-Chairman, District Compassionate Committee,
Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mayanand Jha, Sr. Advocate
		Mr. Giridhar Gopal Tiwary, Advocate
For the Respondent/s	:	Mr. Pankaj Kumar, SC-12

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 22-09-2025

Heard learned Senior counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant writ application praying for a direction to the respondent authorities to issue appointment letter in favor of the petitioner pursuant to the decision taken by the District Compassionate Committee in its meeting held on 5.3.2013 and reaffirmed in the meeting dated 13.6.2013, whereby a decision to appoint the petitioner on Grade Pay of Rs.1800/- was taken.

3. The case of the petitioner in brief is that the father of the petitioner while working on the post of Peon in the



office of the Assistant Director, Major Animal Development Programme, Department of Animal Husbandry, Government of Bihar died in service on 2.2.2012.

4. The petitioner filed his application for being appointed on compassionate ground on 30.5.2012, which after obtaining a report from the Circle Officer, Sadar, Munger, in the meeting held on 5.3.2013, the District Compassionate Committee recommended the case for appointment of the petitioner on compassionate ground.

5. After receiving the recommendation for his appointment on Grade Pay of Rs.1800/- on 4.4.2013, the petitioner filed representation stating that he being a graduate, his application be considered for appointment on the Grade Pay of Rs.1900/-. In its meeting held on 13.6.2013, the District Compassionate Committee rejected the representation filed by the petitioner and recommended for his appointment on the Grade Pay of Rs.1800/-.

6. It is further case of the petitioner that not having received his letter of appointment on compassionate ground for about three years after its recommendation, the mother of the petitioner filed a representation and not receiving any response from any of the respondents, the instant application



was filed praying for the reliefs as stated herein above.

7. In response, it is submitted by learned counsel appearing for the respondents that the petitioner happens to be the younger son of the deceased employee. On perusal of the application (Annexure-2) filed by the petitioner, it would transpire that the full brother of the petitioner is employed as a Constable in the Home (Police) Department of the Government of Bihar.

8. It is the case of the respondents that the Circular no.15783 dated 19.11.2014 (Annexure-A) of the General Administration Department, Government of Bihar clearly stipulates that compassionate appointment is not admissible in a case where one of the dependents is already gainfully employed. There being no dispute with respect to the elder brother of the petitioner being employed as a Constable in the Home (Police) Department, the petitioner could not be appointed on compassionate ground and the instant application for appointment of the petitioner on compassionate ground was fit to be rejected.

9. It is submitted by learned Senior counsel appearing for the petitioner that this Court by its order dated 23.3.2021 passed in CWJC no.14290 of 2019 (Jitendra Kumar



vs. the State of Bihar & Ors.) placing reliance on the Full Bench judgment of this Court in **Niraj Kumar Mallick vs. the State of Bihar & Ors.; 2018 (2) PLJR 951** had directed the respondent authorities to consider the case of the petitioner therein. It was further submitted that even the letter no. 18328 dated 15.11.2024 (Annexure-P13) of the General Administration Department referring to the judgment in the case of **Niraj Kumar Mallick** (*supra*) and Clause 12 (a) of the office order dated 2.8.2022 of the Personnel and Administrative Reforms Department would show that the application for compassionate appointment could still be considered inspite of an earning member being present in the family.

10. Heard learned counsel for the parties and perused the material on record.

11. The relevant facts in brief are that pursuant to his father having died in service on 2.2.2012, the petitioner's application for appointment on compassionate ground was recommended by the District Compassionate Committee on 4.4.2013 for appointment on the Grade Pay of Rs.1800/-. The petitioner's representation for appointment on Grade Pay of Rs.1900/- on account of him being a graduate was rejected in



the meeting of the District Compassionate Committee on 13.6.2013.

12. From the petitioner's own showing, as stated in paragraph no.11 of the writ application, inspite of the petitioner's case having been recommended by the Compassionate Committee, not having received a letter of appointment, the petitioner continued to wait for a period of three years before moving this Court in the instant application. Further, with respect to the petitioner placing reliance on the Full Bench judgment of this Court, the relevant part of the judgment in the case of **Niraj Kumar Mallick** (*supra*) is being reproduced herein below for ready reference :-

“45. A perusal of Clause (क) of Annexure-A to the counter affidavit of respondent no.2 in CWJC No.17143 of 2016 would show that the clarification offered by the General Administration Department clearly states that where any of the dependents of a deceased government servant is ‘gainfully employed’ then irrespective of the fact whether he lives together or separate from other dependents, the benefit of compassionate appointment would not be available to any other dependents of the deceased government servant. I am of the considered opinion that the clarification offered by the Department being a part of the policy decision governing the scheme of appointment on compassionate ground is based on judicial



pronouncement of this Court in the case of Vishal Kumar (supra) and it is fully in consonance with the object of compassionate appointment, it is also in tune with the views expressed by Hon''ble Supreme Court in a catena of decisions some of them I have referred herein above. It is also reasonable one and passes the test of Article 14 and 16 of the Constitution of India. The clarification vide Clause (क) of Annexure- 'A' to the counter affidavit of respondent no.2 cannot be found fault with on the touchstone of Article 14 and 16 of the Constitution of India.

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48. In terms of the clarification offered by the department, on receipt of information that other siblings of the applicant are in employment, the competent authority would be required to objectively look into the nature of the employment and the resources being generated by the employed sibling from such employment. On an objective consideration where it is found that other sibling of the applicant is gainfully employed in such an employment from which he/she is in a position and has capacity to provide sustenance/maintenance to the other dependents, the application for appointment on compassionate ground would not fit in the scheme in terms of the clarification at Annexure- 'A' referred above but where it is found that the employment of the other sibling is of such a nature that it is not generating resources so as to make him able to provide both ends meet, for sustenance/maintenance to the other dependents of the deceased government employee and despite



gainful employment of one of the dependents but because of his poor income from such employment he is not in a position to provide two ends meet to the other dependents, therefore they are on the verge of starvation, destitution and penury, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground. No other plea in any form whatsoever would be a ground to provide the benefit of the scheme of compassionate appointment.

49. In my opinion the Division Bench judgment of this Court in the case of Vishal Kumar (supra) followed by learned Writ Court in the case of Mahabir Paswan (supra) and Jay Prakash Choudhary (supra) are laying down the correct law. In none of these writ applications, the petitioners have pleaded that their other siblings are in such an employment by which they are unable to get sufficient money so as to provide the both ends meet to these petitioners, therefore we find no error in the impugned order rejecting the application of the petitioner(s) on the ground that their other siblings are in employment. I would, therefore approve the judgment dated 22.08.2016 passed by the learned Single Judge in CWJC No.10236 of 2013 which has followed the judgment of the Hon''ble Division Bench in the case of Vishal Kumar (supra).''

(Emphasis Supplied)

13. So far as the report of the Circle Officer is



concerned, in the opinion of the Court, a bare perusal of the same would show that the same contains no details and is conveniently vague.

14. With respect to the judgment in the case of **Niraj Kumar Mallick** (*supra*), paragraph no. 45 thereof quoted herein above clearly stipulates that with the clarification offered by the General Administration Department, if any of the dependents of a deceased Government servant is gainfully employed, then irrespective of the fact whether he lives together or separate from the other dependents, the benefit of compassionate appointment would not be available to any other dependent ie the petitioner herein in the instant case.

15. Paragraph no. 48 of **Niraj Kumar Mallick** (*supra*) further states that the State would be liable to consider the application of the other dependent for compassionate appointment only where it is found that the employment of the other sibling is such that it is not generating resources for maintenance of the other dependents of the deceased Government employee and inspite of the gainful employment of one of the dependents, he is not in a position to provide for the others.



16. In paragraph no.49 of the judgment, the Court noted that there was no pleading in the writ application to the effect that the other sibling was in such an employment where they were unable to get sufficient money so as to provide for them.

17. In absence of the pleadings together with the undisputed fact that the full brother of the petitioner being employed as a Constable in the Home (Police) Department, in view of the judgment in the case of **Niraj Kumar Mallick** (*supra*), in the opinion of the Court, the petitioner is not entitled to any relief.

18. The Court finds no merit in the instant application.

19. The application is dismissed.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	N/A
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