

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9936 of 2019

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Dhanraj Kumar, Son of Late Ram Suresh Prasad, Resident of Village- D. K. Serhawa, P.S.- Matiyariya District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. D.G. of Police, Bihar, Patna.
3. Commandant, B.M.P.-11, Jamui.
4. Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ebrahim Kabir, Advocate Mrs. Shruti Sinha, Advocate
For the Respondent/s	:	Mr. N.H.Khan, SC- 1 Mrs. Babita Kumari, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 18-06-2025

Heard the parties.

2. The petitioner is aggrieved with the order, as contained in Memo No. 1624, dated 30.07.2018 issued by the Commandant BMP-II, Jamui whereby the application of the petitioner for grant of compassionate appointment came to be rejected on the ground of one of the son of the deceased employee had been found working in CRPF.

3. Though the challenge has been made on various grounds, including the ground of arbitrariness and the elder son of the deceased employee is not maintaining the family of the deceased and residing separately. However, this Court is facing



difficulty to accept the submission of the petitioner in view of the Full Bench decision of this Court in the case of **Niraj Kumar Mallick Vrs. The State of Bihar and Others.**, reported in **2018 (2) PLJR 951** wherein the Court in no uncertain terms held that in case of any of the dependents of a government servant being gainfully employed, whether they are living with the other dependents or not, the other dependents shall not be entitled for the benefit of appointment on compassionate ground. It would be worth benefiting to encapsulate paragraph 47 of the judgment.

“47. So far as the clarification that ‘gainfully employed’ means such employment from which the employed dependent of the deceased government servant may provide sustenance or can maintain other dependents is concerned, it has to be looked at ‘objectively’ and not ‘subjectively’. It is not for the authority considering the application for compassionate appointment to find out as to whether the dependent in employment is willing to take care of other dependents or not. It would not be his concern that the gainfully employed sibling is actually providing sustenance to the other dependents or not. Any argument that the dependent in employment is not willing to provide sustenance/maintenance to other dependents or that the employed one is living separately is beyond the scope and ambit of consideration under the given scheme and policy of the government and this Court



sitting in its writ jurisdiction under Article 226 of the Constitution of India would not go into enquiring the correctness of the facts so pleaded before the Court. It is because the writ Court is to be conscious of the judicial pronouncements of the Hon'ble Apex Court wherein it has been repeatedly held that a Court has no power to ignore a provision to relieve what it considers a distress resulting from its operation. We have quoted paragraph 10 and 11 of the judgment of *Asha Ramchandra Ambedkar* (supra) only to remind us what the Hon'ble Apex Court has held in the following words;-

“the Courts should endeavour to find out whether a particular case in which sympathetic considerations are to be weighed falls within the scope of law. Disregardful of law, however hard the case may be, it should never be done”.

4. Considering the mandate of the Full Bench of this Court, this Court does not find any merit in the writ petition. Accordingly, the same stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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