

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2983 of 2017

=====

Ramesh Prajapati Son of Late Baijnath Prajapati, Resident of Village-
Mohalla-Post Office Road Raffiganj Ward No.11, PO+P.S.-Raffiganj, District-
Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, State of Bihar, New Secretariat,
Patna.
2. The Registrar (Administration) High Court of Judicature at Patna.
3. The District and Sessions Judge, Aurangabad, Civil Court, Aurangabad
Cum-Chairman of Compassionate Appointment Committee.
4. The Registrar, Civil Court, Aurangabad.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Singh, Advocate Mr. Ranjit Kumar, Advocate
For the State	:	Mr. Prabhakar Jha, GP-27
For the Respondent nos. 2 to 4	:	Ms. Anukriti Jaipuriyar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 07-10-2025

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

2. The petitioner has filed the instant application
praying for appointment on compassionate ground on account
of his father having died in harness on 8.2.2014 while
working as Daftary in the Civil Court at Aurangabad.

3. The case of the petitioner in brief is that his father



died on 8.2.2014 leaving behind the petitioner and his sister. The family was left with no source of income and the mother of the petitioner having predeceased his father, there was no question of any disbursement of family pension.

4. As such the petitioner filed an application on 9.7.2014 before the respondent no.3 for his appointment on compassionate ground. The application was directed to be put up before the Appointment Committee. As directed, the petitioner appeared before the Committee on the date fixed along with all the original documents.

5. The Appointment Committee of the Civil Court, Aurangabad vide its resolution passed in the meeting held on 9.2.2015 appointed the petitioner on compassionate ground on the post of Daftary in Class IV, subject to the approval of the Patna High Court.

6. The petitioner not having received his letter of appointment filed a representation before the respondent no.3 whereafter he was communicated vide letter dated 16.6.2016 of the respondents that his appointment had not been approved by the Patna High Court and by letter dated 15.12.2015 had been sent back to the respondent no.3 for reconsideration. It is submitted by learned counsel appearing for the petitioner that



another letter dated 4.1.2016 was received from the respondent no.2 by the respondent no.3 communicating that the total strength of compassionate appointees should not exceed 3% of the sanctioned strength of the cadre. Learned counsel submitted that on the death of his father, an employee of the Civil Court, with no source of income, the family was living a miserable life and as such the application be allowed and the petitioner be appointed on compassionate ground.

7. In response, it was submitted by learned counsel appearing for the respondents that the decision taken in the case of the petitioner as also other applicants was transmitted to the Patna High Court for its approval on 9.2.2015. This Court by its letter dated 15.12.2015 declined to grant approval to the appointment of the petitioner and two others and directed for re-examination of their cases in light of the decision of the Hon'ble Supreme Court in the case of **Umesh Kumar Nagpal vs. State of Haryana & Ors.; (1994) 4 SCC 138** as also to ascertain the financial condition of the applicant. The case of the petitioner was reconsidered by the Appointment Committee in its meeting held on 3.8.2016. Taking note of the fact, two letters of the Patna High Court dated 4.1.2016 and 5.4.2016 which restricts the appointment



on compassionate ground so as not to exceed 3% of the sanctioned strength of the cadre in which such appointment is to be made and also taking note of the fact that staffs already appointed in the Judgeship of Aurangabad was more than 3% of the sanctioned strength of the cadre, by letter dated 19.9.2016, the respondent no.2 communicated to the respondent no.3 that the case of the petitioner along with others had not been considered favourably. It was thus submitted by learned counsel for the respondents that in the facts and circumstances of the case, the writ application be dismissed.

8. Heard learned counsel for the petitioner, learned counsel for the respondent nos. 2 to 4 and perused the material on record.

9. The relevant facts in brief are that the father of the petitioner Late Baijnath Prajapati who was working as a Daftary in the Civil Court at Aurangabad passed away on 8.2.2014 while in service leaving behind one son (the petitioner) and one daughter, his wife having predeceased him.

10. On an application having been filed by the petitioner for appointment on compassionate ground, the



Appointment Committee of the Civil Court at Aurangabad considered the same favourably in its meeting held on 9.2.2015 and by letter dated 19.2.2015 sent the same to the respondent no.2 for approval.

11. By letter dated 15.12.2015, the Patna High Court was pleased to return the recommendation of the Appointment Committee with a request to consider the case of the petitioner and others. This communication was followed by another letter dated 4.1.2016 written by the respondent no.2 to all the District and Sessions Judges of Bihar stating therein that having considered the matter regarding appointment on compassionate ground, the Patna High Court has been pleased to direct that appointment on compassionate ground be considered with a restriction that the total strength of compassionate appointees would not exceed 3% of the sanctioned strength of the cadre in which such appointment is being considered.

12. At this stage, it would be relevant to take note of the minutes of the meeting of the Appointment Committee, Civil Court, Aurangabad held on 3.8.2016. With respect to the case of the petitioner, the Committee observed as follows :-

“The third applicant is Sri Ramesh Prajapati, a ward of late Baijnath prajapati, Daftari. Late



Baijnath prajapati left behind his son Ramesh prajapati and a married daughter. His mother had already been died. The sister of applicant has also claimed for her share in the death -cum-retiral benefit of her father. Since, their shares have not been decided by any competent authority till the date, hence no retinal benefit has been paid to him. He is completely in hand to mouth condition. Being an unemployed, his family is in penurious condition. As he has been previously recommended for appointment on the post of daftari, but as per Hon'ble court direction, he may be recommended for appointment on lowest class IV posts."

13. Though the Appointment Committee took note of the difficult financial condition of the petitioner, however in view of the two letters of the Patna High Court dated 4.1.2016 and 5.4.2016 which restricts the appointment on compassionate ground not to exceed 3% of the sanctioned strength of the cadre, once again sought guidelines from this Court. This was turned down and communicated by the respondent no.2 to the respondent no.3 by letter dated 19.9.2016.

14. From the facts stated herein above, it transpires that the only ground on which the case of the petitioner has not been considered favourably is that ten staffs having been appointed in the Judgeship in Class IV cadre on compassionate ground, the same being much more than 3% of



the sanctioned strength on Class IV cadre, in view of the decision taken by this Court and communicated by letter dated 4.1.2016, no further appointment can be made.

15. The Hon'ble Supreme Court in the case of **Indian Bank & Ors. vs. Promila & Anr; (2020) 2 SCC 729** was pleased to hold as follows :-

“3. There has been some confusion as to the scheme applicable and, thus, this Court directed [Indian Bank v. Promila, (2020) 2 SCC 735] the scheme prevalent, on the date of the death, to be placed before this Court for consideration, as the High Court [Promila v. Indian Bank, 2008 SCC OnLine P&H 2267] appears to have dealt with a scheme which was of a subsequent date. The need for this also arose on account of the legal position being settled by the judgment of this Court in Canara Bank v. M. Mahesh Kumar [Canara Bank v. M. Mahesh Kumar, (2015) 7 SCC 412 : (2015) 2 SCC (L&S) 539] , qua what would be the cut-off date for application of such scheme.

4. It is trite to emphasise, based on numerous judicial pronouncements of this Court, that compassionate appointment is not an alternative to the normal course of appointment, and that there is no inherent right to seek compassionate appointment. The objective is only to provide solace and succour to the family in difficult times and, thus, the relevancy is at that stage of time when the employee passes away.

5. An aspect examined by this judgment [Canara Bank v. M. Mahesh Kumar, (2015) 7 SCC 412 : (2015) 2 SCC (L&S) 539] is as to whether a claim for compassionate employment under a scheme of a particular year could be decided based on a subsequent scheme that came into force much after the claim. The answer to this



has been emphatically in the negative. It has also been observed that the grant of family pension and payment of terminal benefits cannot be treated as a substitute for providing employment assistance. The crucial aspect is to turn to the scheme itself to consider as to what are the provisions made in the scheme for such compassionate appointment.”

(Emphasis Supplied)

16. Coming to the facts of the instant case, while the deceased employee/father of the petitioner died on 8.2.2014, the petitioner filed his application on 9.7.2014 which was considered favourably by the appointment committee of the Civil Court, Aurangabad in its meeting held on 9.2.2015. So far as the decision to restrict the total strength of compassionate appointees not to exceed 3% of the sanctioned strength of the cadre is concerned, the same came into effect only on 4.1.2016.

17. Thus in consideration of this Court, the same would not be applicable so far as the case of the petitioner herein is concerned.

18. In view of the facts and circumstances of the case, the application filed by the petitioner is fit to be allowed.

19. The writ application is allowed.

20. The respondents are directed to appoint the petitioner on compassionate ground on Class IV post at Civil



Court, Aurangabad at the earliest preferably within a period of three months from the date of receipt/service of a copy of this order.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	08.10.2025
Transmission Date	

