

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10197 of 2019

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Kumari Priya, W/o Late Sanjay Kumar Bharti, Resident of Lalbag, Hasan Chak, Darbhanga, P.s.- Darbhanga, Distt.- Darbhanga at present residing at C/o Sri Shiv Shankar Choudhary, Flat No. 205, Jay Mangla Apartment, Gauriya Math, Shiv Mandir, Mithapur, P.s.- Jakkanpur, Distt.- Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary Law Department, Govt. of Bihar, Patna
3. The District and Sessions Judge-cum-Chairman Appointment Committee, Civil Court, Patna
4. The Registrar Civil Court, Patna

... .. Respondent/s

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with
Civil Writ Jurisdiction Case No. 11506 of 2019

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Swastika Sharan, D/o Late Diwakar Sharan, R/o Ramanand Path, New Balbhadrapur, P.S. Laheriasarai, District-Darbhangha

... .. Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary Law Department, Government of Bihar, Patna
3. Registrar General Patna High Court, Patna
4. Registrar (Administration) Patna High Court, Patna
5. District and Sessions Judge Civil Court, Darbhanga, District-Darbhangha
6. Court Manager Civil Court, Darbhanga, District-Darbhangha

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 10197 of 2019)

For the Petitioner/s	:	Mr. Ravindra Kr Sinha No.2, Advocate
For the Respondent/s	:	Mr. Mithilesh Kumar Upadhyay, AC to GP-3
For the H.C.	:	Mr. Piyush Lal, Advocate

(In Civil Writ Jurisdiction Case No. 11506 of 2019)

For the Petitioner/s	:	Mr. Shanti Pratap, Advocate
For the Respondent/s	:	Mr. Prasant Pratap, GP-2
For the H.C.	:	Mr. Piyush Lal, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 18-06-2025 Heard the parties.



2. Considering the identical issue involved and similar reliefs claimed for in both the writ petitions, same are being heard together and disposed off by this common order, with the consent of the parties.

3. The petitioner in C.W.J.C. No. 10197 of 2019 is the wife of Late Sanjay Kumar Bharti, who was Clerk in Civil Court, Patna and died in harness on 01.01.2015, leaving behind the petitioner as sole dependent. Aggrieved with the order dated 06.10.2017 passed by the learned District and Sessions Judge-cum-Chairman Appointment Committee, Civil Court Patna, contained in Memo No.15539-15542 dated 07.10.2017, whereby the prayer of the petitioner for her compassionate appointment came to be rejected, she preferred the present writ petition.

4. Similarly, the petitioner in C.W.J.C. No. 11506 of 2019, is the daughter of Late Diwakar Sharan, who was Clerk in Civil Court, Darbhanga and died in harness on 28.12.2015. She preferred the present writ petition on being aggrieved with the order contained in letter no.32524 dated 06.04.2019 issued under the signature of the Registrar (Administration), High Court of Judicature at Patna, by which a communication has been made to the District and Sessions Judge, Darbhanga, that the case of the petitioner for



appointment on compassionate ground came to be rejected.

5. In sum and substance in both the writ petitions, learned Advocate for the petitioners while assailing the impugned order have submitted that the date on which the erstwhile employees died in harness, there was a policy decision of the High Court of Judicature at Patna to extend Compassionate Appointment to the extent of 3% of the sanctioned strength of the cadre in which such appointment was being considered. However, the date on which their claims were considered, the policy decision came to be modified and vide letter no. 1211-47 dated 10.01.2017 the permissible limit prescribed to the extent of 3% has been extended to 5%, subject to the condition that appointment on compassionate ground only be made against Class IV post. However, in case of death of Judicial Officer, he/her spouse/son/unmarried daughter may be appointed on Class III post on compassionate grounds, subject to his/her eligibility for the said post as exceptional case.

6. Referring to the aforesaid policy decision learned Advocate for the petitioners vehemently contended that had the claim of the petitioners been considered against the 5% of the limit of the sanctioned strength of the cadre, they would have been certainly appointed on compassionate ground. But, there cases have been considered under the old policy decision and



thus, it is wholly illegal and arbitrary.

7. Mr. Piyush Lal, learned Advocate referring to the averments made in the counter affidavit filed in C.W.J.C. No. 11506 of 2019 has submitted that the claim of the petitioners were duly considered by the respective competent authority and on being found that against the permissible limit for appointment on compassionate ground, out of total sanction strength of post, excess persons were appointed on compassionate ground and no vacancy as such remained available under this quota, the claims of the petitioners were turned down. It has been specifically contended that in the District of Darbhanga, out of total strength of 218 post, 21 posts were filled up on compassionate ground, which is more than the permissible limit of 5% against the total, working strength of Class IV employees, i.e. 11. Similarly, in the district of Patna, against the total strength of 488 post, the permissible limit of compassionate appointment comes to 24, but 50 posts have already been filled up through appointment on compassionate ground in the Judgeship of Civil Court, Patna. Taking note of the aforesaid facts, the claim of the petitioner came to be rejected.

8. Taking this Court through the decision rendered by the Apex Court in the case of *Central Bank of India vs. Nitin*,



2022 SCC Online SC 1873, Mr. Lal further contended that there is settled proposition of law that the very object of granting compassionate employment is to enable the family to tide over the sudden crisis and for the said purpose, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.

9. Referring to paragraph 19 of the aforesaid judgment it is further contended that in a case where the authority has extended the benefit of compassionate appointment without considering the financial sustainability, the Apex Court held, that the Division Bench patently erred in arriving at the finding that whether the family was indigent or not could not be a ground for refusing compassionate appointment to a candidate who was otherwise eligible for appointment under the Compassionate Appointment Scheme.

10. Referring to the decision in the case of ***State Bank of India & Anr. vs. Raj Kumar, (2010) 11 SCC 661*** it has further been reminded that the claim for compassionate



appointment is traceable only to the Scheme framed by the employer for such employment, and there is no right whatsoever outside such scheme. There could be no automatic appointment merely on application.

11. The very purpose of providing appointment on compassionate ground is to mitigate the hardship due to death of the bread-earner in the family. Undoubtedly, such appointment should be provided immediately to redeem the family in distress.

12. In the case of *Umesh Kumar Nagpal v. State of Haryana and Others [(1994) 4 SCC 138]*, the Apex Court ruled that the appointment on compassionate ground cannot be a source of recruitment. It is merely an exception to the requirement of law keeping in view the fact of the death of employee while in service leaving his family without any means of livelihood. In such cases, the object is to enable the family to get over sudden financial crisis. Such appointments on compassionate ground, therefore, have to be made in accordance with rules, regulations or administrative instructions taking into consideration the financial condition of the family of the deceased. This favorable treatment to the dependent of the deceased employee must have clear nexus with the object sought to be achieved thereby, i.e. relief against destitution.



However, the Court cautioned that it should not be forgotten that as against the destitute family of the deceased, there are millions and millions of other families which are equally, if not more, destitute.

13. It would be pertinent to encapsulate the observation made by the Apex Court in the case of *Life Insurance Corporation of India v. Asha Ramchandra Ambekar (Mrs.) and Another [(1994) 2 SCC 718]*, wherein the learned Court has cautioned that High Courts and Administrative Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds when the regulations framed in respect thereof do not cover and contemplate such appointments.

14. Being conscious of the fact that the permissible limit for appointment on compassionate ground to the extent of 3% post of the sanctioned strength of the cadre came to be extended to 5% and now more than permissible limit have been filled up. No positive order can be passed in favour of the petitioners.

15. In view of the aforesaid legal position and the submissions advanced by the learned Advocate for the respective parties as also the materials available on record, this Court finds that the orders of rejection passed by the competent



authority do not suffer from any infirmity. This Court does not find any merit in the present writ petitions. Accordingly, both the writ petitions stand dismissed.

(Harish Kumar, J)

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