

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3206 of 2021

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Kamal Kumar Son of Late Parmanand Tiwary Resident of Village- Shital
Bhakurahar, P.O. Mani Bhakurahar, P.S.- Sarai, District- Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department,
Government of Bihar, Patna.
3. The Engineer-in-Chief, Public Health Engineering Department, Government
of Bihar, Patna.
4. The District Compassionate Committee, Vaishali at Hajipur through the
Chairman-cum-District Magistrate, Vaishali at Hajipur.
5. The Executive Engineer, Public Health Division, Hajipur, District- Vaishali
at Hajipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. S. B. K. Mangalam, Adv.
For the Respondent/s : Mr. Vishwambhar Prasad, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 09-07-2025

Heard the parties.

2. This is the second round of litigation as earlier the claim of the petitioner for appointment on compassionate ground came to be negated, which order was put to challenge by filing CWJC No. 6195 of 2019. A Bench of this Court, while considering the submission of the petitioner that the brother of the petitioner, who is in government service, is not looking after the family, thus leaving the family in a state of destitution,



directed the petitioner to make a representation before the District Magistrate, Vaishali at Hajipur to look into the matter and in case of finding that the claim of the petitioner is worth reconsideration under the scheme of compassionate appointment shall cause the case of the petitioner to be kept on the agenda of the District Compassionate Appointment Committee and a decision be taken with respect to compassionate appointment of the petitioner.

3. In pursuant to the aforesaid direction of this Court, the case of the petitioner was referred to the District Compassionate Appointment Committee; however the same did not find favour in view of Letter No. 15783 dated 19.11.2014 issued by the General Administration Department wherein it is clearly prescribed 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.

4. Mr. S. B. K. Mangalam, learned Advocate for the petitioner while assailing the impugned order has taken this Court through letter No. No. 15783 dated 19.11.2014 and submitted that since it is the admitted position that gainfully



employed son of the deceased is not residing with the petitioner, therefore, the case of the petitioner would come under exception that the employment of the gainfully dependent is not that of nature which is able to generate sufficient resources, so as to make him able to provide both ends meet.

5. On the other hand, learned Advocate for the State, Mr. Vishwambhar Prasad referring to the decision of this Court in the case of ***Ram Pravesh v. State of Bihar [CWJC No. 4878 of 2019]*** has submitted that the identical issue has come up for consideration before this Court and the Court having taken note of the Full Bench decision of this Court in the case of ***Niraj Kumar Mallick v. The State of Bihar and Others [2018(2) PLJR 951]*** turned down the prayer for compassionate appointment.

6. Having bestowed proper consideration, this Court finds that the issue, as has been raised by the learned Advocate for the petitioner, has come up for consideration before the learned Full Bench of this Court wherein the Court in paragraph nos.47 and 48 has crystallized the entire scenario as follows:

“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”.

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."

7. Having gone through the afore noted pronouncements and taking note of the fact that one of the son of the deceased employed gainfully, even though he is residing separately, is not entitled to get appointment on compassionate ground. Moreover, there is no averment even in the writ petition that the petitioner



is facing destitution and penury on account of the employment of the other sibling is such a nature that it is not generating resources so as to make him liable to provide both ends meet.

8. In view thereof, this Court does not find any merit in the present writ petition. Accordingly, the instant writ petition stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2025
Transmission Date	

