

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.8139 of 2017**

=====

Amit Kumar S/o Late Subhash Chandra, Resident of AtPO- Kanhaiyachak,  
P.S.Via- Parbatta, District- Khagaria, PIN CODE- 851216.

... .. Petitioner/s

Versus

1. The T. M. Bhagalpur University , Bhagalpur through its Registrar
2. The Vice-Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Compassionate Appointment Committee of the T.M. Bhagalpur University, Bhagalpur, through its Chairman-cum-the Vice Chancellor
4. The Registrar, T.M. Bhagalpur University, Bhagalpur.
5. The Finance Officer, T.M. Bhagalpur University, Bhagalpur.
6. The Principal, K.M.D. College, Parbatta, P.S.- Sabour, Distt- Bhagalpur.
7. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna
8. The Director, Higher Education Department, Govt. of Bihar, Patna.

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr.Purushottam Kumar Jha

For the Respondent/s : Mr.S.C. Mishra- SC16

For the TMBU : Mr. Ritesh Kumar , Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**CAV JUDGMENT**

**Date : 16-10-2025**

1. The present writ application has been filed by the petitioner for quashing the decision dated 27.02.2016 of the Compassionate Appointment Committee of Tilka Manjhi Bhagalpur University, whereby his claim for compassionate appointment was rejected.

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



Late Subhash Chandra, was appointed as a Counter Clerk (Arts) in K.M.D. College, Parbatta, on 09.02.1981 vide Appointment Letter No. 67 / 81 and he joined his duties on 13.02.1981. His appointment was accepted and approved by the then Professor-in-Charge of the College. Subsequently, the petitioner's father, along with other Class-III and Class-IV non-teaching employees of the College approached this Court in C.W.J.C. No. 12544 of 2003 (Ranjan Kumar Singh & Ors. vs. State of Bihar & Ors.) seeking regularization of their services. The said writ petition was disposed of vide order dated 11.07.2005 directing the Secretary, Human Resources Development Department, Government of Bihar to take appropriate steps in light of Full Bench judgment in Braj Kishore Singh vs. State of Bihar & Ors., 1997 (1) PLJR 509 and to release funds in respect of such non-teaching posts falling within the staffing pattern.

3. In compliance with the said order, the Director, Higher Education, Government of Bihar issued Memo No. 931 dated 26.06.2006, whereby 22 Class-III and 21 Class-IV posts were sanctioned under staffing pattern for K.M.D. College, Parbatta and the services of 43 employees including the petitioner's father were approved for absorption. However, the said Memo contained a restrictive Clause No. 4, stipulating that the posts



so created under the staffing pattern would cease to exist upon retirement, death or resignation of the incumbent, and that no further appointment would be made thereon.

4. The petitioner's father was absorbed in 2006 as Laboratory In-charge. The father of the petitioner died in harness on 19.08.2009 while serving on the post of Laboratory In-Charge in K.M.D. College, Parbatta - a constituent unit of Tilka Manjhi Bhagalpur University.

5. After his demise, the petitioner, being the elder son and a dependent of the deceased employee, submitted an application for compassionate appointment on 30.08.2010 enclosing all requisite documents including the recommendation of the Principal of the College before the Registrar of the University.

6. The matter remained pending before the authorities which compelled the petitioner to approach this Court by filing C.W.J.C. No. 18996 of 2014. The University filed a counter affidavit indicating that a decision had been taken to seek legal opinion in the matter. Accordingly, the writ petition was disposed of on 08.10.2015 directing the University to take a final decision on the petitioner's case preferably before 31.12.2015.

7. The Compassionate Appointment Committee of the



University headed by the Vice-chancellor in its meeting held on 27.02.2016 rejected the petitioner's claim for compassionate appointment relying upon the legal opinion of a Senior Advocate of this Court.

8. Learned counsel for the petitioner submits that the rejection of the petitioner's claim of compassionate appointment is wholly arbitrary, mechanical and passed without due application of mind. The said order runs contrary to the spirit and ratio laid down by Full Bench of this Court in Braj Kishore Singh case (supra) which categorically held that posts falling within the staffing pattern of an affiliated college are to be treated as sanctioned posts.

9. It was argued that once the services of the petitioner's father had been duly absorbed against a sanctioned post, his death in harness created a legitimate and enforceable right for consideration of his dependent's claim for compassionate appointment. The University, therefore, could not defeat this right by inserting an arbitrary and illegal clause providing for automatic abolition of the post upon the incumbent's death. Such a condition is nothing but an attempt to circumvent judicial pronouncements and is violative of Articles 14 and 16 of the Constitution of India.



10. He further submits that in the absence of an adequate number of teaching and non-teaching staff no educational institution can effectively run. Hence, the action of the authorities directing for such automatic abolition of posts is unreasonable, unjustified, and unsustainable in law. The post of Laboratory In-Charge in which the petitioner's father was serving continues to exist. In the event that the post of Laboratory In-Charge is not available, the petitioner may be considered for adjustment on any other suitable post.

11. On the other hand, learned counsel for the respondent-University argued that in terms of Clause 4 of Memo No. 931 dated 26.06.2006 as well as Clause 3 of the absorption letter dated 25.08.2006 of the petitioner's father it is evident that the posts created under the staffing pattern would cease to exist upon the retirement, death or resignation of the incumbent and that no further appointment would be made thereon. Accordingly, upon the death of the petitioner's father, the post held by him stood automatically abolished, and consequently, no vacancy remained available for consideration of the petitioner's case for compassionate appointment.

12. It is further contended that the petitioner's father had duly accepted the terms and conditions of absorption, including



the aforesaid clause, and the same was never challenged during his lifetime.

13. I have heard learned counsel for the parties and gone through material on record. The father of the petitioner was absorbed on the post created under staffing pattern in view of the judgment Full Bench judgment rendered in Braj Kishore Singh case (supra). Clause 4 of the letter of the State Government dated 26.06.2006 represents a conscious policy decision of the State taken to create additional posts only to the limited extent necessary for regularizing existing employees with a clear condition that such posts would lapse upon retirement, death or resignation of the incumbent. The absorption letter of the petitioner's father also contained a similar stipulation in clause-3. The petitioner father accepted the aforesaid clauses and it was never challenged by his father during his life time or by any other employee.

14. The Hon'ble Supreme Court in the case of Director of Treasuries in Karnataka and Anr. versus Somyashree reported in 2021(12) SCC 20 has held that compassionate appointment is an exception to general rule and no aspirant can claim right to compassionate appointment.

15. In yet another judgment of Umesh Kumar Nagpal vs.



State of Haryana and Ors. reported in 1994(4) SCC 138 in paragraph no. 2 the principles of compassionate appointment has been encapsulated in the following terms:-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, 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. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

16. Inter alia it has been held that compassionate appointment is not a vested right of the dependent. It is a concession extended to enable the family of a deceased



employee to tide over a sudden financial crisis arising out of the employee's death in harness. Such appointment cannot be claimed as a matter of course or in disregard to the prevailing service rules, recruitment norms, or sanctioned strength. While compassionate appointment serves as an exception to general rule of appointment, it is extended purely on humanitarian grounds to the dependents of an employee who dies in harness leaving his family in penury and without any means of livelihood. The object of such appointment is to provide immediate financial relief to the bereaved family to enable it to overcome the sudden crisis. The mere death of an employee in service does not by itself entitle his dependents to such employment.

17. The father of the petitioner died in 2009 and if the petitioner has been able to survive for the last sixteen years, it goes to show that he has sufficient means of livelihood from other sources. Furthermore, absorption letter of the petitioner's father dated 25.08.2006 and policy decision of the State dated 26.06.2006 —also say that the post sanctioned under staffing pattern shall cease to exist upon retirement, death or resignation of the incumbent and that no further appointment would be made thereon. As such, the petitioner cannot claim his vested



right to appointment. Accordingly, the application is dismissed.

(Anil Kumar Sinha, J)

praful/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | AFR        |
| CAV DATE          | 07-10-2025 |
| Uploading Date    | 16-10-2025 |
| Transmission Date | NA         |

