

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1251 of 2022

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Vicky Kumar Son of Late Shambhu Singh Resident of Village-Ashani, P.O.
Ashani P.S. Udwanthnagar District-Bhojpur, Ara.

... .. Petitioner/s

Versus

1. The Union of India through Home Secretary, Human Resources Department, Shastri Bhawan, C-Wing, Dr. Rajendra Prasad Road, New Delhi-110001.
2. The Chairman, N.C.C.F. of India, N.C.U.I. Complex, 3-Sri Industrial Area Agust Kranti Marg, Houzkhas, New Delhi-110016.
3. The Managing Director, N.C.C.F. of India, N.C.U.I. Complex, 3-Sri Industrial Area Agust Kranti Marg, Houzkhas, New Delhi-110016.
4. The General Manager, N.C.C.F. of India, N.C.U.I. Complex, 3-Sri Industrial Area Agust Kranti Marg, Houzkhas, New Delhi-110016.
5. The office-in-Charge, N.C.C.F. of India, N.C.U.I. Complex, 3-Sri Industrial Area Agust Kranti Marg, Houzkhas, New Delhi-110016.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Prasad Singh, Advocate
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 16-03-2026 Heard learned counsel for the petitioner. No one appears for the respondents.

2. The petitioner has filed the instant application praying for a direction to the respondents to consider and appoint the petitioner on compassionate ground on account of the death of his father who died on harness on 2.1.2011.

3. The case of the petitioner in brief is that the father of the petitioner Late Shambhu Singh who was working as a Peon in the National Cooperative Consumer Federation (NCCF) died in harness on 2.1.2011 leaving behind his wife and children



including the petitioner herein.

4. It is submitted by learned counsel for the petitioner that the father of the petitioner being the sole earning member in the family and the family not having any other source of income, the petitioner filed an application on 15.2.2021 for appointment on compassionate ground. Not having received any response thereto, the petitioner got a legal notice sent on 15.11.2021. Still not having got any appointment nor any response to his application or notice, the instant application has been filed praying for a direction to appoint the petitioner on compassionate ground.

5. No one appears on behalf of the respondents to oppose the instant application.

6. Having heard learned counsel for the petitioner and having perused the contents of the petition, it transpires that the father of the petitioner was working on the post of Peon in the NCCF when he died in harness on 2.1.2011 leaving behind the petitioner ie his son as also other members of the family. The petitioner came to file an application for his appointment on compassionate ground 10 years after the death of his father on 15.2.2021 and thereafter not having been appointed, the writ application has been filed.



7. It may be observed here that the Hon'ble Supreme Court in the case of ***Umesh Kumar Nagpal vs. State of Haryana and others; (1994) 4 SCC 138*** has held that the object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and it is not the alternative mode of providing employment. Relevant part of the judgment is reproduced herein below for ready reference:

“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.”

8. Coming to the facts of the instant case, the father of



the petitioner having died in the year 2011 and the very application for appointment on compassionate ground having been filed 10 years later, it can be reasonably deduced that the petitioner had some alternative source of income and as such the delay in filing his application for compassionate appointment.

9. The Hon'ble Supreme Court already having held that this mode of appointment is not an alternative source to provide employment and only to assist the family of the deceased employee to tide over the sudden financial crisis, in the opinion of the Court, the delay in filing the very first application would be relevant consideration in exercise of the discretionary jurisdiction by this Court.

10. In the opinion of the Court, the petitioner has not made out any case for intervention by this Court for a direction to the respondents to appoint him on compassionate ground.

11. The Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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