

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4040 of 2024

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Ranjeet Paswan S/o Late Rajballabh Paswan R/o Kazi Bazar, Paswan Toli
P.O. and P.S. Hilsa Dist Nalanda Bihar

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Nalanda, Bihar.
3. The District Compassionate Committee, Nalanda through its Chairman, the District Magistrate, Nalanda, Bihar.
4. The Superintending Engineer, Minor Irrigation Department, Minor Irrigation Circle, Nalanda.
5. The Executive Engineer, Minor Irrigation Department, Minor Irrigation Circle, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gyan Shankar, Advocate Ms. Ankita Roy, Advocate
For the Respondent/s	:	Mr. Standing Counsel (4)

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

5 31-03-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following relief(s):

*“i. Issuance of a writ, writ(s), order orders
for quashing recommendation of the District
Compassionate Committee dated 21.02.2023 so far it
relates to the petitioner, whereby and where under the
case of the petitioner for compassionate appointment
has illegally been rejected without any enquiry on the
non-est ground that the brother of the petitioner is in
government service.*

ii. Issuance of a writ, writ(s), order orders



for quashing the consequential order bearing memo no- 1116 dated 20.07.2023 issued under the signatures of the Deputy Collector, Establishment, Nalanda where by the decision of the Compassionate Committee rejecting the case of the petitioner for compassionate appointment has been communicated to the petitioner.

iii. For commanding the respondent District Compassionate Committee to reconsider its decision dated 21.02.2023 and recommend the case of the petitioner for compassionate appointment in view of the fresh Unemployment Certificate contained in memo no-665 dated 11.04.2023 issued by the Circle Officer, Hilasa, Nalanda which certifies that none of the brothers of the petitioners are in Government Service and further the fact that they are living separately.

iv. Issuance of any other writ(s), order(s), or direction(s) as may be deemed fit and proper by this Hon'ble Court."

3. The case of the petitioner in brief is that the father of the petitioner who was working as a Tubewell Operator in Minor Irrigation Department died in harness on 21.4.2021 due to illness. The application for compassionate appointment having been filed by the petitioner came to be rejected in the meeting of the District Compassionate Committee held on 21.2.2023 brought on record as Annexure-1 to the writ application and the consequential order was communicated by the Deputy Collector, Establishment, Nalanda by his letter dated



20.7.2023 (Annexure-2). It is the rejection of the application which has lead to the petitioner for filing the writ application.

4. Learned counsel for the petitioner in reference to the proceedings of the meeting of the District Compassionate Committee submits that the reason for rejection of petitioner's application was the dependent of the deceased Government servant being gainfully employed. Referring to Annexure-1, it is submitted that reliance has been placed on letter no.1781 dated 10.5.2010 of the General Administration Department and further that no enquiry was conducted with respect to the earnings of the petitioner's brother. Referring to paragraph no.8 of the writ petition, it is submitted that the petitioner's brother was not in regular Government service but was a contractual employee in the Bihar Police Building Construction Corporation. Learned counsel submits that the said statement has not been contradicted or contested by the respondents in their counter affidavit. Reliance has been placed by the petitioner on the Full Bench judgment of this Court in the case of *Niraj Kumar Mallick vs. The State of Bihar & Ors.; 2018 (2) PLJR 951*.

5. The application is opposed by learned counsel appearing for the respondents who submits that the application of the petitioner for his appointment on compassionate ground



was considered by the District Compassionate Committee and the Committee in its meeting held on 21.2.2023 considered the application and rightly rejected the same in view of the General Administration letter no.1781 dated 10.5.2010. The petitioner not denying the fact that his brother is gainfully employed being in Government service, there is no merit in the writ application and the same be dismissed.

6. Heard learned counsel for the parties and perused the material on record.

7. The relevant facts in brief are that the father of the petitioner having died in Government service on 21.4.2021, the petitioner filed an application for his appointment on compassionate ground. The same came to be rejected by the District Compassionate Committee in their meeting held on 21.2.2023 on the ground of the brother of the petitioner being gainfully employed.

8. It is not in dispute that the brother of the petitioner is not in a regular Government service but was working on contractual basis in the Bihar Police Building Construction Corporation. In response to this statement made in paragraph no.8 of the petition, the counter affidavit of respondent no.2 in paragraph no.14 thereof states that the same is a matter of



record.

9. At this stage, it would be relevant to refer to the Full Bench judgment of this Court in the case of Niraj Kumar Mallick (supra) wherein while considering the guidelines of the State Government issued on 19.11.2014 wherein the letter no.1781 dated 10.5.2010 of the General Administration Department was also referred to, this Court held 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 paragraphs 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.

49. In my opinion the Division Bench judgment of this Court in the case of Vishal Kumar (supra) followed by learned Writ Court in the case of Mahabir Paswan (supra) and Jay Prakash Choudhary (supra) are laying down the correct law. In none of these writ applications, the petitioners have pleaded that their other siblings are in such an employment by which they are unable to get sufficient money so as to provide the both ends meet to these petitioners, therefore, we find no error in the impugned order rejecting the application of the petitioner(s) on the ground that their other siblings are in employment. I would, therefore approve the judgment dated 22.8.2016 passed by the learned Single Judge in CWJC No. 10236 of 2013 which has followed the judgment of the Hon'ble Division Bench in the case of Vishal Kumar (supra).

50. The Letters Patent Appeal as well as both the Writ Applications are, accordingly, dismissed. There will, however, be no order as to costs."



10. Taking into consideration the facts and circumstances of the case and specially the ratio of the judgment in the case of Niraj Kumar Mallick (supra), the competent authority was required to objectively look into the nature of the employment and the resources being generated by the employed sibling (brother of the petitioner herein) from such employment.

11. On perusal of the contents of the order impugned as also the counter affidavit filed, the Court finds that no such enquiry has been made.

12. In view of the facts and circumstances of the case, the minutes of the meeting dated 21.2.2023 of the District Compassionate Committee brought on record as Annexure-1 to the writ application so far as it relates to this petitioner as also the following order dated 20.7.2023 of the Deputy Collector, Establishment, Nalanda as contained in Annexure-2 are both set aside.

13. The matter is remitted back to the District Compassionate Committee, Nalanda through its Chairman, the District Magistrate, Nalanda (respondent no.3) to consider the case of the petitioner in view of the Full Bench judgment in the case of Niraj Kumar Mallick (supra) as quoted herein above.

14. The matter being one relating to compassionate



appointment with respect to an employee who died on 21.4.2021, the matter be considered and decided within a period of two months from today.

15. The matter be considered expeditiously and the order passed be communicated to the petitioner forthwith.

16. The writ application stands allowed to the above extent.

(Partha Sarthy, J)

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