

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4726 of 2024

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Nikhat @ Nikhat Parveen, Wife of Late Md. Sayyad Alam @ Sayyad,
Resident of Village-Murballa Ward No.2, Post Office Hariya Bara, Police
Station-Araria R.S. (O.P.), District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department Govt. of Bihar, Patna.
2. The District Magistrate, Araria.
3. The Engineer in-Chief Road Construction D Govt. of Bihar, Patna.
4. The Chief Engineer, Simanchal Sub-Division, Road Construction Department, Patna.
5. The Compassionate appointment Committee, through District Magistrate, Araria.
6. The Superintending Engineer, Road Ancha, Road Construction Department Purnea.
7. The Executive Engineer, Road Division, Road Construction Department, Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amir Alam, Advocate
For the Respondent/s : Mr. Satya Vrat, AC to GP-10

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

8 15-05-2026 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application for
the following reliefs :-

*“(i) For issuance of direction/
directions or order/orders or writ/writs
particularly in the nature of certiorari to quash
the order contained letter No. 1827/ dated
30.11.2023 issued under the signature of*



executive Engineer, Road Construction Department Road Division, Araria by which appointment on compassionate ground of the petitioner has been rejected in most arbitrary manner even without assigning any reason.

(ii) For issuance of direction or order or writ particularly in the nature of mandamus for commanding and directing the Respondents to make appointment on compassionate ground on suitable post to the petitioner.

(iii) For any other incidental and consequential relief to which the petitioner is found fit under this facts and circumstances of this case.

A true Photo copy of letter No. 1827 dated 30.11.2023 is annexed herewith and marked as Annexure-P/1 to this petition.”

3. The case of the petitioner in brief is that the deceased employee was appointed as a Messenger in the Road Construction Department, Government of Bihar in the year 1981. After the death of his first wife, the petitioner entered into marriage/*Nikah* with him. Unfortunately the husband of the petitioner died in harness on 18.11.2021. Left with no source of income, the petitioner filed an application for her appointment on compassionate ground. The respondents not having taken any steps for the petitioner's appointment, the same has lead to the



petitioner filing the instant application for the reliefs prayed for as stated herein above.

4. It is submitted by learned counsel for the petitioner that there is no dispute with respect to the fact that the petitioner happens to be the wife of the deceased employee. Referring to the letter dated 20.7.2023 (Annexure-P4) of the District Establishment Deputy Collector, Araria, it is submitted that Clause-4 of the letter dated 13.7.2022 of the General Administration Department clearly provides for appointment on compassionate ground of the second wife as also the children born out of the second wedlock. As such it is prayed that the respondents be directed to appoint the petitioner on compassionate ground.

5. The application is opposed by learned counsel appearing for the respondents. It is submitted that though it is not in dispute that the petitioner happens to be the second wife of the deceased employee, however at the same time the petitioner being a divorcee as evident from the affidavit sworn by the petitioner herself in Divorce Case no.135 of 2015 pending in the Court of Principal Judge, Family Court, Araria, the petitioner being divorced, there being no surviving relationship of the petitioner and the deceased employee on the



date of his death, no appointment on compassionate ground can be made.

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

7. The petitioner happens to be the second wife of the employee who while working in the Road Construction Department, Government of Bihar died in harness on 18.11.2021. The question as to whether the petitioner herein i.e. the second wife of the employee was his wife or divorce had taken place between her and the deceased employee, reference may be made to the reply to the counter affidavit filed on behalf of the respondents wherein Annexure P/5-1 has been brought on record which is an affidavit sworn by the petitioner bearing no.7426/2015 in connection with Case no.135M of 2015 (Nikhat Parween & Anr. vs. Md. Saiyyad) filed in the Court of Principal Judge, Family Court, Araria under section 125 of the Cr.P.C. for maintenance. A perusal of the said affidavit would show that a statement has been made by the petitioner to the effect that on the basis of an agreement between the parties, the deceased employee gave her *Teen Talaq* and a total amount of Rs.76,390/- by way of maintenance etc.

8. At this stage, it is submitted by learned counsel for



the petitioner that a perusal of the said affidavit would show that there are no witnesses to the said oath/affidavit having been sworn by the petitioner. Contrary to the submissions, it transpires that the oath/affidavit has been sworn by the petitioner in presence of one Chandranand Das, Advocate of Araria and Sangiruddin who have identified the petitioner.

9. In view of the facts and circumstances of the case, the Court finds that the petitioner has not made out any case for interference in the order impugned dated 30.11.2023.

10. There is no merit in the instant writ application and the same is dismissed.

11. All the pending interlocutory application(s) also stands disposed of.

(Partha Sarthy, J)

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