

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7219 of 2026

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Hemant Kumar Verma S/o Sri Mahesh Prasad, R/o- Satyendra Nagar, behind
Bharti Uchyangal School, Road No. 2, Dumra, P.S.- Dumra, District-
Sitamarhi- 843301.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Water Resources Department, Government of Bihar,
Patna.
3. The District Magistrate, Sitamarhi.
4. The Chief Engineer, Water Resources Department, Muzaffarpur.
5. The Superintending Engineer, Head Work Circle, Bagmati Nagar, Sitamarhi.
6. The Executive Engineer, Bagmati Division No. 1, Sitamarhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Roona, Advocate
For the Respondent/s	:	Mr. Dhurjati Prasad, GP-14
	:	Md. F. Ahmad, AC to GP-14

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 12-05-2026

Heard the parties.

2. The present writ petition has been filed for the
following reliefs:-

“(i) Issuance of an order, direction or appropriate writ quashing the letter dated 23.05.2025 as contained in Annexure- P/4 whereby the application of the Petitioner for compassionate appointment has been rejected without taking note of letter of General Administration Department No. 13573 dated 18.11.2021 and without referring the case of the Petitioner to the District Compassionate Appointment Committee.



(ii) For a direction upon the Respondent Chief Engineer to place the application of the Petitioner before District Compassionate Appointment Committee and the Respondent District Magistrate cum Chairman of the Compassionate Committee be directed to consider the case of the Petitioner on the basis of the dependent of the deceased employee and hardship being faced to him.

(iii) For a direction upon the Respondents to consider the representation of the Petitioner dated 05.07.2025 in the light of orders passed by the Hon'ble High Court in C.W.J.C. No. 15383 of 2014 as contained in Annexure- P/6 series."

3. The brief facts giving rise to present writ petition are that the father of the petitioner died in harness on 05.03.2001, while working as a Blue Printer in the office of the Executive Engineer, Bagmati Division No.1, Sitamarhi. Mother of the petitioner, who was also in Government Service, superannuated on 31.01.2010 i.e. after few months of the death of the deceased employee. The brother of the petitioner being eligible, submitted an application in prescribed performa, alongwith all the relevant documents on 09.02.2010, with a request to the respondent authorities to consider his candidature for appointment on compassionate ground. When the case of the brother of the petitioner was not been considered, he filed a writ petition bearing



C.W.J.C. no. 8944 of 2019, however during pendency of the said writ petition, the brother of the petitioner died on 15.03.2024. The writ petition bearing C.W.J.C. no. 8944 of 2019 was disposed of with a liberty to the legal heirs of the deceased brother of the petitioner to raise the grievance, if any, surviving. The petitioner after death of his brother, filed a representation before the Executive Engineer, Bagmati Division on 28.06.2024, for consideration of his case for compassionate appointment. The Chief Engineer, Water Resources Department, Muzaffarpur, vide his Letter No. 1845 dated 23.05.2025 informed the mother of the petitioner that the petitioner is not entitled for appointment on compassionate ground, since the mother of the petitioner was also in Government Service and the case of the petitioner was rejected. While rejecting the application of the petitioner, it was also mentioned that one of the son of the deceased employee is also in Government service. Thereafter, the mother of the petitioner filed a representation before the authorities concerned on 05.07.2025, giving reference to the letter of the General Administration Department bearing Letter No. 13573 dated 18.11.2021 and requested for consideration of the case of the petitioner for appointment on compassionate ground, afresh.



4. The learned counsel for the petitioner submits that the General Administration Department vide letter dated 18.11.2011 has clarified the issue of appointment of dependent of the deceased, that even in the event of the wife of the deceased employee to be in Government Service, but retired from service, will be entitled for appointment. The wife of the deceased employee was in Government service, but she superannuated on 31.01.2010, as such the ground of being in Government Service, denying for compassionate appointment, is not applicable in case of the petitioner. She submits that the application of the petitioner for appointment on compassionate ground was not even forwarded to the Compassionate Appointment Committee, despite reminders and requests and the same was rejected by the respondent authorities, against the guidelines of the Government, at the threshold.

5. The learned counsel for the petitioner further submits that the respondent-Chief Engineer, without recommending the case before the District Appointment Committee, rejected the claim of the petitioner solely on the ground that the mother of the petitioner was in Government service. He also did not consider the dependence of the petitioner on the deceased employee and in mechanical manner, rejected the claim, upholding the observation



of the Executive Engineer. She submits that for compassionate appointment, it is necessary to look into the dependance of the petitioner on the deceased employee. It is the fact that the mother of the petitioner was in Government job, but still the petitioner was dependent on his deceased father and other members of the family are living separately, without supporting the petitioner in any manner, as such the respondent Executive Engineer and the Chief Engineer ought to have placed the application of the petitioner for compassionate appointment before the District Appointment Committee.

6. The learned counsel for the petitioner further submits that the touchstone for the exercise of power of compassionate appointment, is to see whether the family of the deceased employee has other source of livelihood, to meet the hardship. The mother of the petitioner being in Government service cannot be the sole ground for rejecting the claim of the petitioner for being appointed on compassionate ground. She submits that this Hon'ble Court having considered the different circulars of the Government and also the dependence of the deceased employee has proceeded to allow the writ petition *vide order dated 18.08.2021 passed in C.W.J.C. No. 15600 of 2009 (Rajeev Kumar Manjhi versus State of Bihar & Others), vide order dated 03.09.2014 passed in*



C.W.J.C. No. 8956 of 2013 (Sunny Kumar Singh versus State of Bihar & Others) and the judgment dated 02.02.2018 passed in C.W.J.C. No. 15383 of 2014 (Gunjan Kumar versus State of Bihar & Others). Therefore she submits that the petitioner deserve to be appointed on compassionate ground.

7. Per contra, the learned counsel appearing on behalf of the State respondents submits that the claim of the petitioner has been rejected on the ground that at the time of death of the deceased employee, the mother of the petitioner was in Government service and it has further been considered that one of the sons of the deceased employee is in Government service. He submits that the law in this regard is very much clear and the Hon'ble Full Bench of this Court in the case reported in ***2018 (2) P.L.J.R. 951 (Niraj Kumar Mallik versus State of Bihar & Others)*** has settled the issue with regard to compassionate appointment.

8. Having heard the learned counsel for the parties and after going to the records, it appears that the issue in question is no more res integra in view of the judgment of the Hon'ble Full Bench of this Court reported in ***2018 (2) P.L.J.R. 951 Niraj Kumar Mallik (supra)***, wherein this Court was interpreting the circulars issued by the General Administration Department bearing



no. 15783 dated 19.11.2014, which say that in case of any dependents of the Government servant being gainfully employed, whether they are living with other dependents or not, the other dependents shall not be entitled for benefit of appointment on compassionate ground. It further stated that gainfully employed means such employment, from which the dependants of the deceased Government servant may be maintained or in other words, they can get their sustenance. Further, in paragraphs no. 45, 47, 48 and 49, the Hon'ble Full Bench in the case of **Niraj Kumar Mallick (supra)** has held as follows:-

“45. A perusal of Clause (d) of Annexure-A to the counter affidavit of respondent no.2 in CWJC No. 17143 of 2016 would show that the clarification offered by the General Administration Department clearly states that where any of the dependents of a deceased Government servant is “gainfully employed” then irrespective of the fact whether he lives together or separate from other dependents, the benefit of compassionate appointment would not be available to any other dependents of the deceased Government servant. I am of the considered opinion that the clarification offered by the Department being a part of the policy decision governing the scheme of appointment on compassionate ground is based on judicial pronouncement of this



Court in the case of Vishal Kumar (supra) and it is fully in consonance with the object of compassionate appointment, it is also in tune with the views expressed by Hon'ble Supreme Court in a catena of decisions some of them I have referred hereinabove. It is also reasonable one and passes the test of Articles 14 and 16 of the Constitution of India. The clarification vide Clause (d) of Annexure- "A" to the counter affidavit of respondent no.2 cannot be found fault with on the touchstone of Articles 14 and 16 of the Constitution of India.

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.

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)."*

9. Further, the Hon'ble Supreme Court of India in a case reported in (1994) 4 SCC 138 (**Umesh Kumar Nagpal vs. State of Haryana & Ors.**), while considering the object and purpose of



compassionate appointment, proceeded to record in paragraph no.2 as follows:

“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 application 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 oth 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.”

10. Similarly, the Hon’ble Supreme Court of India in the case of ***Jagdish Prasad Versus State of Bihar and Another*** reported in ***(1996) 1 SCC 301***, in paragraph no.3 has held that



“the very object of appointment of a dependent of the deceased employee who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. Since the death occurred way back in 1971, in which year the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contention is accepted, it amounts to another mode of recruitment of the dependent of a deceased government servant which cannot be encouraged, de hors the recruitment rules.”

11. Further, the learned Coordinate Bench decisions relied upon by the learned counsel for the petitioner is not applicable in the present case, since the Hon’ble Full Bench of this Court in the case of **Niraj Kumar Mallik (supra)** considered the circulars of the State Government and then, proceeded to pass the order.

12. Having considered the above and on the basis of the settled legal proposition, this Court is of the view that one of the brothers of the petitioner is in Government Service and the mother is getting family pension, therefore there is no infirmity in the order contained in letter no. 1845 dated 23.05.2025, issued



under the signature of Chief Engineer, Water Resource
Department, Muzaffarpur.

14. Accordingly, the present writ petition is
dismissed.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	19.05.2026
Transmission Date	NA

