

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7863 of 2024

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Baijnath Tripathi S/o Late Siyaram Tripathi R/o Village- Ghoghiya, P.O.-
Mashrakh, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Human Resources Development Department, Government of Bihar, Patna.
2. The District Magistrate, Saran at Chapra.
3. The Deputy Collector, Establishment, Saran at Chapra.
4. The District Education Officer, Saran at Chapra.
5. The District Programme Officer (Establishment) Saran at Chapra.
6. The Anchal Adhikari, Mashrakh, Saran.

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Ajay Kr Singh No.1, Advocate
For the State : Mr. Jitendra Kumar, A.C. to Ex-A.A.G.11

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT
Date : 07-05-2026

Heard the learned counsel for the parties.

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

“(i) To set aside the order dated 11.1.2020 passed by the respondent no.4 vide letter no.206 contained in annexure- 14 by which the respondent authority has refusal to appoint the petitioner on the basis of compassionate ground although Hon’ble Court vide CWJC No.23696/2018 has clearly directed to take appropriate decision with regard to the claim of the petitioner.

(ii) To command and direct the respondents to appoint the petitioner on the basis



of compassionate ground to any suitable post according to his qualification and eligibility in place of his father who died in harness on 11.11.2004 while working as Assistant teacher in Primary School, Mahuli under Taraiya Anchal of Saran District.

(iii) To command and directs the respondents to appoint the petitioner on the basis of the letter no. 581 dated 06.04.2010 issued by District Compassionate committee in which petitioner's name has been found place in serial no.16.”

3. The brief facts, giving rise to the present writ petition, are that the father of the petitioner, namely, Siyaram Tripathi was appointed as an Assistant Teacher in the year 1975 and was discharging his duties till his death on 11.11.2004, while he was working as an Assistant Teacher in Primary School, Mahuli, Taraiya, Saran. At the time of the death of his father, the petitioner was admittedly a minor, aged about 16 years. Later on, after attaining the age of majority, he gave his application before the competent authority, along with all the relevant documents and he was directed by the authorities concerned on several dates, to provide certain documents. In compliance thereof, the petitioner produced all the relevant documents before the competent authority, however when no decision was taken on the application submitted by the petitioner, he was constrained to file a writ



petition bearing C.W.J.C. No.5404 of 2012 before this Hon'ble Court. The learned Co-ordinate Bench of this Court vide order dated 21.03.2012 disposed of the writ petition with a direction to the District Programme Officer (Establishment), Saran at Chapra to see to it that the application of the petitioner for his compassionate appointment is placed before the appropriate Committee and decision is taken on the same, positively within three months from the date of receipt/production of a copy of the order. It was further directed that if the District Program Officer, Establishment finds any short fall or lacuna in the application of the petitioner, he will ask the petitioner to complete or clear the same well in time. When the order dated 21.03.2012, passed in C.W.J.C. No.5404 of 2012 was not being complied with, the petitioner filed a contempt petition bearing M.J.C. No.566 of 2017. The said contempt petition was dismissed vide order dated 08.02.2018 with a liberty to the petitioner to approach the authorities for appropriate relief, since a decision was already taken by the District Compassionate Appointment Committee in the year 2010 and the same was never challenged by the petitioner. The petitioner again filed a writ petition bearing C.W.J.C. No.23696 of 2018 before this Hon'ble Court. The said writ petition was disposed



of vide order dated 08.07.2019 by a learned Co-ordinate Bench of this Court, directing the respondents to take appropriate decision with regard to the claim of the petitioner for compassionate appointment at the earliest, preferably within a period of 60 days from the date of receipt/production of copy of the order. When the said order was not being complied, the petitioner again filed a contempt petition bearing M.J.C. No.1314 of 2021. The contempt petition was again disposed of vide order dated 23.02.2024, since during pendency of the contempt petition, the District Education Officer, Saran at Chapra had passed a reasoned order vide Memo No.206, dated 11.01.2020, by which the claim of the petitioner was negated. The petitioner was given liberty to challenge the same in an appropriate proceeding. The petitioner has filed the present writ petition challenging the order contained in Memo No.206, dated 11.01.2020, passed by the District Education Officer, Saran at Chapra, whereby his claim for compassionate appointment has been rejected.

4. The learned counsel for the petitioner submits that the case of the petitioner was recommended for compassionate appointment by the Compassionate Appointment Committee in its meeting dated 06.04.2010 and



the respondent authorities are deliberately not appointing the petitioner, although he has got qualification of matriculation and is fit to be appointed on a Class IV post. He further submits that the petitioner and his family members have suffered a lot on account of not granting the benefit of compassionate appointment to him, although his father had died on 11.11.2004.

5. *Per contra*, the learned counsel for the Respondents-State, by referring to the counter affidavit filed on behalf of respondent no.5, submits that the claim of the petitioner was considered by the District Compassionate Appointment Committee, Saran on 06.04.2010, along with other similarly situated candidates. After considering the General Administration Department, Bihar, Patna Letter No.2958, dated 22.06.2009, all applications were returned back to the District Education Officer/District Superintendent of Education. The name of the petitioner is mentioned at Serial No.16. After refusal of the claim, the petitioner again moved before this Court vide C.W.J.C. No.23696 of 2018 and the same was disposed of with a direction to the respondent authorities to take appropriate decision with regard to the case of the petitioner. Pursuant thereto, the petitioner filed a



representation along with all the documents. He further submits that at the time of death of his father, the petitioner was of 16 years of age and passed matriculation examination, however as per Government Circular vide Letter No.2955, dated 22.06.2009, the dependent of the deceased employee will be appointed on the post of Teacher on compassionate appointment. He further submits that pursuant to the order dated 21.03.2012, passed in C.W.J.C. No.5404 of 2012, the application of the petitioner was sent to the Block Development Officer-cum-Member Secretary, Block Employment Unit, Masharak for consideration of his appointment, in view of Bihar Panchayat Employment Rule, 2006. The Employment Unit considered the application of the petitioner on 01.08.2017 and rejected his claim on the ground that the petitioner does not possess the required qualification as per Bihar Panchayat Employment Rule, 2012. The required qualification for appointment on the post of Panchayat/Block Teacher is intermediate and TET/STET. The District Education Officer, Saran at Chapra considered the grievance of the petitioner and found that the petitioner has not passed the intermediate examination and TET/STET, which is required for appointment on the post of Block/Panchayat Teacher,



therefore the petitioner was not recommended, in view of having not obtained the requisite qualification. He further submits that in view of the order passed by the District Education Officer, Saran vide Memo No.206, dated 11.01.2020, the case of the petitioner has been rejected and the petitioner was not found fit for appointment on compassionate ground.

6. Having heard the learned counsel for the parties and after going through the records, it appears that it is an admitted position that the father of the petitioner died in harness on 11.11.2004 and after attaining the age of majority, he applied for his appointment on compassionate ground. His case was considered, but, was not recommended by the Compassionate Appointment Committee in its meeting dated 06.04.2010. The matter was returned to the District Education Officer, Saran for appropriate action in the matter. Subsequently, on the directions of this Hon'ble Court, the case of the petitioner was again considered and has been rejected by the impugned order contained in Memo No.206, dated 11.01.2020. It is an admitted fact that the death of the father of the petitioner occurred in 2004 and now after 22 years, the benefit of compassionate appointment cannot be given to the



petitioner.

7. 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.”*

8. The Hon'ble Supreme Court of India in the case of **Umesh Kumar Nagpal Versus State of Haryana and Others** reported in **(1994) 4 SCC 138**, in paragraph no.6 has held as follows:-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole



breadwinner; the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over””

9. The Hon’ble Supreme Court of India in the case of **Local Administration Department and Another versus M. Selvanayagam @ Kumaravelu** reported in **(2011) 13 SCC 42**, in paragraph no.11 has held as follows:-

“11. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying in harness one of his eligible dependants is given a job with the sole objective to provide immediate succour to the family which may suddenly find itself in dire straits as a result of the death of the breadwinner. An appointment made many years after the death of the employee or without due consideration of the financial resources available to his/her dependants and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependants of the deceased employee would be directly in conflict with Articles 14 and 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind.”

10. Even this Court, based on the consideration of the Hon’ble Supreme Court of India in the cases of **Jagdish Prasad** (supra), **Umesh Kumar Nagpal** (supra) and **Local Administration Department** (supra), vide its judgment dated



07.04.2026, passed in C.W.J.C. No.20429 of 2013 (**Sanjay Kumar Srivastava vs. The State of Bihar & Ors.**) has proceeded to reject the claim of the petitioner on the ground of delay and laches.

11. Accordingly, this Court does not find any merit in the writ petition and the same is dismissed.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.05.2026
Transmission Date	NA

