

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8393 of 2022

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Jyoti Kumar S/o Late Basant Chaudhary R/o Village- Ayar Kotha, P.S.-
Darihat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Rohtas at Sasaram.
2. The Collector cum Chairman of District Compassionate Appointment Committee, Rohtas, Sasaram.
3. The Civil Surgeon, Rohtas, Sasaram.
4. Incharge Medical Officer, Primary Health Centre, Dihri, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Awadhesh Kumar Mishra
For the Respondent/s : Mr.Birju Prasad (Gp 13)

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 10-02-2026

Heard the parties.

2. I.A. No. 01 of 2024, IA No. 03 of 2024 and I.A. No. 04 of 2024 have been filed for early hearing of the writ petition, but due to passage of time the same become infructuous, therefore, the learned counsel for the petitioner submits that he is not pressing the same. Accordingly, the same are dismissed as not pressed.

C.W.J.C. No. 8393 of 2022

3. The present writ petition has been file for quashing the letter no. 1145 dated 06.09.2021 passed by the Collector-cum-Chairman of District Compassionate Appointment



Committee, Rohtas, Sasaram whereby the claim of the petitioner for appointment on compassionate ground on a Class-IV post has been erroneously rejected. Further prayer in the writ petition is for direction upon the respondent authorities to appoint the petitioner on any Class-IV post in the Department of Health on compassionate ground.

4. Brief fact of the case is that the father of the petitioner after being appointed on a Class-IV post, started working and while posted in the Primary Health Centre, Dihri, he died in harness on 14.01.2018. After the death of his father, the petitioner submitted his application before the In-charge Medical Officer, Primary Health Centre, Dihri, Rohtas requesting him to consider the case of the petitioner for compassionate appointment, but no action was taken. The elder brother of the petitioner was employed as a Constable, but he did not take care of his parents, deserted them and started living separately at his place of posting with his wife and children. All the family members of the petitioner submitted their respective affidavits in favour of the petitioner for him being given the appointment on compassionate ground.

5. It is further case of the petitioner that although he fulfills all the criteria for being appointed on the compassionate



ground, but by the impugned order contained in Memo No. 1145 dated 06.09.2021 issued under the signature of the District Magistrate, Rohtas, Sasaram, the claim of the petitioner has been rejected on the ground that in view of the letter no. 1781 dated 10.05.2010 issued by the General Administration Department, Bihar, Patna, if any family member of the deceased employee is gainfully employed, then in that case, the appointment will not be given to any other dependent of the deceased employee. A report was called for from the Circle Officer, Dihri whereby it was mentioned that the petitioner is not gainfully employed, but his brother namely Kunal Kumar Chaudhary is employed in Bihar Police, therefore the application of the petitioner for appointment on compassionate ground was rejected.

6. The learned counsel for the petitioner submits that the order passed by the District Magistrate, Rohtas, Sasaram is erroneous, arbitrary and against the order passed by the Full Bench of this Court in a case reported in **2018 (2) PLJR 951 (Niraj Kumar Mallick & Ors. versus The State of Bihar through Secretary, Rural Works Department, Government of Bihar, Patna & Ors.)**.

7. The learned counsel for the petitioner further relies



on an order dated 23.03.2021 passed by a Co-ordinate Bench of this Court in C.W.J.C. No. 14290 of 2019 whereby the writ petition was allowed and the matter was remitted back to the concerned authority for consideration of the application afresh. Learned counsel for the petitioner relies on paragraph no.3 of the order dated 23.03.2021, which is being quoted hereinbelow:-

“3. The learned counsel for the petitioner has referred to a judgment rendered by a Full Bench of this Court, reported in 2018(2) PLJR 951 (Niraj Kumar Mallick & Others v. The State of Bihar through Secretary, Rural Works Department, Government of Bihar, Patna & Others), paragraph no. 48 whereof, is reproduced hereinbelow :-

“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.”



The learned counsel for the petitioner has submitted that the learned Full Bench of this Court has categorically held that in cases, 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 servant, the authorities of the State would be liable to consider the application of other dependent for appointment on compassionate ground.

8. The learned counsel for the petitioner submits that in the present case, no such enquiry was ever conducted as directed by the Full Bench of this Court in the case of *Niraj Kumar Mallick (supra)*.

9. Per contra, the learned counsel for the respondent-State referring to the counter affidavit filed on behalf of the respondent no.2 submits that the claim of the petitioner for appointment on compassionate ground was considered along with others in the meeting of the District Compassionate Appointment Committee dated 06.09.2021, headed by the District Magistrate, Rohtas, Sasaram and the application of the petitioner has been rejected on the ground that the brother of the petitioner namely Kunal Kumar Chaudhary is gainfully



employed in the Bihar Police service and in view of the guidelines issued by the General Administration Department, Bihar, Patna, it was resolved to reject the application of the petitioner.

10. Having heard the learned counsel for the parties and on perusal of the documents available on record, it appears that the application of the petitioner for appointment on compassionate ground has been rejected solely on the ground that one of the brothers of the petitioner is gainfully employed in Bihar Police. It appears that no enquiry whatsoever has been conducted by the authorities concerned in the light of the directions issued by the Full Bench of this Court in the case of *Niraj Kumar Mallick (supra)*, specially in paragraph no.48 which has been quoted by a Co-ordinate Bench of this Court in order dated 23.03.2021 passed in C.W.J.C. No. 14290 of 2019. It appears that in the case of *Niraj Kumar Mallick (supra)* it was held that where employment of other sibling is of such a nature that he is not providing sustenance to the other dependents of the deceased government employee, the respondent-authorities are bound to consider the application of other dependents for appointment on compassionate ground and for that purpose, the competent authority is required to objectively look into the



nature of the employment and the resources being generated by the employed sibling from such employment.

11. In such view of the matter, I have got no other option but to quash the Memo No. 1145 dated 06.09.2021 issued under the signature of the District Magistrate, Rohtas, Sasaram, so far it relates to the petitioner, whereby the case of the petitioner for grant of employment on compassionate ground has been rejected, merely on the ground that his brother is working in Bihar Police, which is contrary to the law laid down by the Full Bench of this Court in the case of *Niraj Kumar Mallick (supra)*.

12. Accordingly, the order impugned contained in Memo No. 1145 dated 06.09.2021 is set aside, so far as it relates to the petitioner and the matter is remitted back to the District Magistrate, Rohtas, Sasaram to conduct an enquiry in terms of paragraph no.48 of the judgment rendered by the Full Bench of this Court in the case of *Niraj Kumar Mallick (supra)* and thereafter shall proceed to take a decision with regard to the case of the petitioner for appointment on compassionate ground.

13. The entire exercise, as directed above, must be completed within a period of eight weeks from the date of receipt/production of a copy of the order.



14. The writ petition stands allowed in the
aforementioned terms.

15. Pending Interlocutory Application(s), if any,
also stand disposed of.

(Ritesh Kumar, J)

AjayMishra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2026
Transmission Date	NA

