

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8248 of 2026

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Shadab Rahman Son of Late Sheikh Mojibur Rahman, Resident of Mohalla-Zakhi Bigha, Ward No. 24, P.O.- Dalmiyanagar, P.S.- Dehri-on-Sone, Dist-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Dept. of Education, Government of Bihar, Patna.
2. The District Magistrate, Rohtas at Sasaram.
3. The District Education Officer, Rohtas, Sasaram.
4. The District Program Officer (Establishment), Rohtas, Sasaram.
5. The Executive Officer-Cum-Secretary, Nagar Parishad, Teachers Appointment Committee, Nagar Parishad, Dehri- Dalmiyanagar, Rohtas.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Sanjay Kumar Tiwary, Advocate
For the State	:	Mr. S.K. Ranjan, A.C. to G.P.17
For Res. No.5	:	Mr. Avinash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 22-06-2026

Heard the learned counsel for the parties.

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

“1. That the petitioner has filed the instant writ application for issuance of writ in the nature of mandamus commanding and directing upon the respondent concerned specially Respondent No. 3 The District Education Officer Rohtas at Sasaram to consider the claim of petitioner for appointment on compassionate grounds against Class-III post which is still vacant (rather Class-III post was also vacant at the time of appointment of the petitioner on Class-IV) and



petitioner possess the educational qualification of graduation being eligible for appointment against Class-III post despite that petitioner has been provided for appointment on Class-IV post vide memo no. 320 dated 04.03.2023 issued by Respondent No. 5 (Executive Officer-Cum-Sectary, Nagar Parishad, Teachers Appointment Committee) and thereafter petitioner is consistently representing his claim before respondent authorities apprising that in identical situation other persons have been appointed against Class-III post but petitioner has been discriminated despite availability of Class-III post which is contrary to article 14, and 16 of the Constitution of India, Any other/others, writ/writs, direction/directions which the petitioner is entitle to.”

3. The learned counsel for the petitioner submits that the mother of the petitioner was an Assistant Teacher of Islamiya Urdu Madhya Vidyalaya, Dehri-on-Sone, District Rohtas and died in harness on 19.05.2018. The petitioner having the requisite qualification applied for appointment on compassionate ground on a Class-III post. Despite the fact that the petitioner was duly qualified, for being appointed on a Class-III post, he was appointed on a Class-IV post vide Memo No.320, dated 04.03.2023, issued at the level of the Executive Officer-cum-Secretary, Nagar Parishad, Teachers Appointment Committee, Nagar Parishad, Dehi – Dalmiyanagar, Rohtas. The petitioner gave his joining on a Class-IV post on



13.03.2023 at Rama Rani Jain Uchch Vidyalaya at Dehri, Rohtas. It is further submitted that despite the fact that the petitioner was having the requisite qualification, he was appointed on a Class-IV post, although as per the government resolution contained in Memo No.1128, dated 21.08.2020, it was incumbent upon the respondent authorities to consider his case for being appointed on Class-III post, since he possesses the requisite qualification, for his appointment on Class-III post. He further submits that similarly situated person, who was wife of one Sunil Kumar, who was working as Fitness Teacher in Rama Rani Jain Valika Uchch Vidyalaya, was appointed on a Class-III post, however the petitioner, despite having the necessary qualification, has been discriminated with. He submits that the petitioner has filed a representation dated 10.10.2025 before the concerned authority to consider his case, for making appointment on Class-III post, however no decision has been taken by the respondent authorities on the representation filed by the petitioner. He further submits that even the Class-III post is vacant, however the respondent authorities are not making effort to consider the case of the petitioner for his appointment on Class-III post and he has been appointed on a Class-IV post.



4. *Per contra*, the learned counsel appearing on behalf of the State and the Nagar Parishad submit that the petitioner has already been given the benefit of compassionate appointment on a Class-IV post in 2023 itself and he has started working on the said post on 13.03.2023. At the time of appointment, he did not object to his appointment on Class-IV post and now has filed the present writ petition raising his grievance that despite having the requisite qualification for being appointed on a Class-III post, he has been appointed on a Class-IV post.

CONSIDERATION

5. Having considered the rival submissions and after going through the records, it appears that the mother of the petitioner died in harness on 19.05.2018, while working as an Assistant Teacher, Islamiya Urdu Madhya Vidyalaya, Dehri-on-Sone, District Rohtas. Pursuant thereto, the petitioner gave his application before the concerned authorities, for being considered for appointment on compassionate basis. The application of the petitioner was duly considered and vide Memo No.320, dated 04.03.2023, issued under the signature of the competent authority, the petitioner was appointed on compassionate basis on a Class-IV post. In compliance thereof,



the petitioner gave his joining on 13.03.2023 and is said to have been working on Class-IV post till date. The petitioner has now filed the present writ petition for giving him the benefit of appointment on a Class-III post, instead of Class-IV post, since similarly situated person has been given appointment on a Class-III post. The Hon'ble Supreme Court of India in a decision reported in **2025 (e) PLJR-SC 76240** in the case of **The Director of Town Panchayat & Ors. Versus M. Jayabal & Ors. etc. (Civil Appeal No.12640 of 2025 and its analogous caes)** vide judgment dated 12.12.2025, in paragraphs no.7, 8, 8.1, 9, 10, 11 and 12 has recorded as under:

“WHETHER COMPASSIONATE APPOINTMENT IS A MATTER OF RIGHT?”

7. First and the foremost issue which requires consideration by this Court in the present appeals is whether the compassionate appointment of a family member on account of death of an employee in service, is as a matter of right or not. The issue stands settled in an authoritative judgment of this Court in **Umesh Kumar Nagpal vs. State of Haryana & Ors. 1994 INSC 189 : (1994) 4 SCC 138** it was opined therein that the core objective behind granting compassionate employment is to enable the family to tide over sudden financial crisis and such favourable treatment that is given to the dependant of the deceased employee is a relief against destitution. It is totally on humanitarian grounds. The relevant paragraphs in are extracted below:



2. 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 both 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 dependent 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. (emphasis supplied)

CLAIM FOR HIGHER POST

8. It is not in dispute that after the death of the employees in service, the dependent family members were offered appointment to a post for which an application was made by them. They had joined on that post without raising any objection. Meaning thereby, the financial crisis of the family was over as one of the dependents of the deceased was offered appointment on compassionate basis in terms of the policy existing at the time of consideration of their application.

8.1 The next issue which requires consideration by this Court is whether the dependent family member of a deceased employee, after being appointed on a post on compassionate basis, can later on seek indulgence of the employer to appoint him on a higher post.

9. The law on the issue is well-settled. The issue as to whether a second option can be exercised by the dependent family member of the deceased employee, once option for compassionate appointment has already been exercised and the dependent family member of the



deceased joined on the post to which appointment was given, was considered by this Court in **State of Rajasthan v. Umrao Singh, 1994 INSC 423 : (1994) 6 SCC 560**. In this case, the deceased was working as Sub-Inspector, CID. On account of his death during service, application for appointment on compassionate basis was made. The dependant was offered appointment on the post of L.D.C. The same was accepted and the incumbent joined on the post. Later, he requested for consideration of his case for appointment on the post of Sub-Inspector, being eligible for the same. This Court negated the claim holding that once right for consideration for appointment on compassionate post was consummated, any further or second consideration for a higher post on the ground of compassion would not arise. The relevant paragraph 8 is extracted below:

8. Admittedly the respondent's father died in harness while working as Sub-Inspector, CID (Special Branch) on 16-3-1988. The respondent filed an application on 8-4-1988 for his appointment on compassionate ground as Sub-Inspector or LDC according to the availability of vacancy. On a consideration of his plea he was appointed to the post of LDC by order dated 14-12-1989. He accepted the appointment as LDC. Therefore, the right to be considered for the appointment on compassionate ground was consummated. No further consideration on compassionate ground would ever arise. Otherwise, it would be a case of endless compassion. Eligibility to be appointed as



Sub-Inspector of Police is one thing, the process of selection is yet another thing. Merely because of the so-called eligibility, the learned Single Judge of the High Court was persuaded to the view that direction be issued under proviso to Rule 5 of Rules which has no application to the facts of this case. (emphasis supplied)

10. In view of the law laid down by this Court, it stands clarified that the once the right of an applicant to be considered for appointment on compassionate grounds has been consummated, no further consideration is warranted. Once dependent of a deceased employee is offered employment on compassionate basis, his right stood exercised. Thereafter, no question arises for seeking appointment on a higher post. Otherwise, it would be a case of endless compassion.

WHETHER THE DEPENDANT OF A DECEASED EMPLOYEE CAN SEEK EMPLOYMENT ON COMPASSIONATE BASIS ON A HIGHER POST ?

11. This Court has also opined on the issue whether a dependent family member of a deceased employee can seek compassionate appointment on a post higher than the post which the deceased was holding, merely on the ground that he fulfils the criteria of such higher post. The opinion expressed is that the same will run contrary to the very object of grant of compassionate appointment, which is provided to enable the family of the deceased employee to tide over sudden financial crisis. Employment on compassionate basis is provided only on account of humanitarian consideration. Relevant paragraph of the judgment of this Court in Premlata (Supra) is



extracted below:

10.2 In a given case, it may happen that the dependant of the deceased employee who has applied for appointment on compassionate ground is having the educational qualification of Class II or Class I post and the deceased employee was working on the post of Class/Grade IV and/or lower than the post applied, in that case the dependant/applicant cannot seek the appointment on compassionate ground on the higher post than what was held by the deceased employee as a matter of right, on the ground that he/she is eligible fulfilling the eligibility criteria of such higher post. The aforesaid shall be contrary to the object and purpose of grant of appointment on compassionate ground which as observed hereinabove is to enable the family to tide over the sudden crisis on the death of the breadearner. As observed above, appointment on compassionate ground is provided out of pure humanitarian consideration taking into consideration the fact that some source of livelihood is provided and family would be able to make both ends meet.

12. Keeping in view the core objective behind appointment on compassionate basis, as has been discussed in a catena of judgments of this Court, it is well settled that compassionate appointment is a relief against immense financial hardship caused by the sudden and unforeseen loss of the earning member of a family. In such event, when a dependant family



member of the deceased employee is provided appointment on compassionate basis, it is done in order to ensure that the family members are not subjected to impoverishment, therefore, such appointment which is arising out of exceptional circumstances, cannot be used as a ladder to climb up in seniority by claiming a higher post merely on the basis that he/she is eligible for such post.”

6. Further, the Hon’ble Division Bench of this Court in a judgment reported in 2016(4) PLJR 997 (Ravi Kant Jha & Ors. vs. The State of Bihar & Ors.), after considering different judicial pronouncements of the Hon’ble Supreme Court of India and others, in paragraph no.13 has held as follows:

“13. In a later three Bench Judgment reported as **Director of Education (Secondary) vs. Pushpendra Kumar**, (1998) 5 SCC 192 [: 1998(2) PLJR (SC)181], the Court examined the question if it is incumbent for the authorities to appoint the dependants of a member of the teaching/non-teaching staff in a non-government recognized aided institution dying in harness on a Class-III post even though no post was available for such appointment in the institution in which the deceased employee was employed or any other institution in the district and for that purpose a supernumerary post in Class-III post was required to be created. The Court held as follows:-

“8. The object underlying a provision for grant of compassionate employment is to enable the family of the



deceased employee to tide over the sudden crisis resulting due to death the breadearner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Such a provision makes a departure from the general provisions providing for appointment on the post by following a particular procedure. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions. An exception cannot subsume the main provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision. Care has, therefore, to be taken that a provision for grant of compassionate employment, which is in the nature of an exception to the general provisions, does not unduly interfere with the right of other persons who are eligible for appointment to seek employment against the post which would have been available to them, but for the provision enabling appointment being made on compassionate grounds of the dependant of a deceased employee.

10. The construction placed



by the High Court on the Regulations governing appointment of dependants of teaching/non-teaching staff in non-government recognised aided institutions dying in harness would result in all the vacancies in Class-III posts in non-government recognised aided institutions which are required to be filled by direct recruitment being made available to the dependants of persons employed on the teaching/non-teaching staff of such institutions who die in harness and the right of other persons who are eligible for appointment to seek employment on those posts by direct recruitment would be completely excluded. On such a construction, the said provision in the Regulations would be open to challenge on the ground of being violative of the right to equality in the matter of employment inasmuch as other persons who are eligible for appointment and who may be more meritorious than the dependants of deceased employees would be deprived of their right of being considered for such appointment under the rules. A construction which leads to such a result has to be avoided. Having regard to the fact that there are a large number of posts falling vacant in Class-IV and appointment on these posts is made by direct recruitment, the object underlying the provision for giving employment to a dependant of a person employed on teaching/non-teaching staff who dies in harness would be



achieved if the said provision in the Regulations is construed to mean that in the matter of appointment of a dependant of a teaching/non-teaching staff in a non-government recognised aided institution dying in harness if a post in Class-III is not available in the institution in which the deceased employee was employed or in any other institution in the district, the dependant would be appointed on a Class-IV post in the institution in which the deceased employee was employed and for that purpose a supernumerary post in Class-IV may be created. If the Regulations are thus construed, the respondent-applicants could only be appointed on a Class-IV post and they could not seek a direction for being appointed on a supernumerary post in Class-III for that purpose. We are, therefore, unable to uphold the direction given by the High Court in the impugned judgments whereby the respondents have been directed to be appointed on a Class-III post if they possess the requisite qualifications for such a post and in case no Class-III post is available, then a supernumerary Class-III post be created for the purpose of such appointment.”

7. From the judgments above-mentioned and considering the factual aspects, this Court is of the considered opinion that once the petitioner has been granted the benefit of compassionate appointment, now he cannot raise a grievance



that he should have been appointed on a Class-III post instead of a Class-IV post.

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

9. Pending application(s), if any, shall also stand disposed of.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2026
Transmission Date	NA

