

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.894 of 2024

In
Civil Writ Jurisdiction Case No.5759 of 2021

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Ravi Kumar Ranjan Son of Krishna Kumar Yadav Resident of Village-
Dafarkha, Police Station- Triveniganj, District- Supaul. Appellant/s
Versus

1. The State of Bihar through the Secretary, Water Resources Department,
Bihar, Patna.
 2. The Secretary, Irrigation Department, Bihar, Patna.
 3. The Engineer-in-Chief, Irrigation Department, Bihar, Patna.
 4. The Executive Engineer, Irrigation Division, Triveniganj.
- Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra, Advocate
For the Respondent/s : Mr. Additional Advocate General-8

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT
(Per: HONOURABLE RAJESH KUMAR VERMA)

Date : 04-02-2026

Heard Mr. Ashok Kumar Mishra, learned counsel for the
appellant and Additional Advocate General-8, learned counsel for the
State.

Re:-I.A. No. 01 of 2025

2. The aforesaid interlocutory application has been
pressed for condoning the delay of 195 days in preferring this appeal.
3. For the reasons stated in the interlocutory application,
the delay in preferring this appeal is condoned.
4. Interlocutory Application No. 01 of 2025 stands
allowed.



Re:-L.P.A No. 894 of 2024

5. The present appeal is directed against the order dated 18.01.2024 passed in CWJC No. 14216 of 2021 which was heard along with C.W.J.C No. 5759 of 2021, whereby the Hon'ble Single Judge has been pleased to dispose of both the writ petition, with a direction to the respondent authorities to consider the case of the petitioner of first case i.e. C.W.J.C. No. 14216 of 2021 and in the second case i.e. C.W.J.C. No. 5759 of 2021, the Hon'ble Single Judge has held that the second marriage of the Government employee, was made during subsistence of first marriage, the same is illegal, hence the second wife is not entitled to any family pension and the son from the second wife of the deceased employee is not entitled for grant of compassionate employment.

6. Learned counsel for the appellant submits that it is admitted fact that Late Krishna Kumar Yadav had married Madhulata Devi and out of their wedlock, he was blessed with one son (appellant) and one daughter, namely, Jyoti Kumari and the said Krishna Kumar Yadav died in harness on 11.06.2015.

7. Learned counsel for the appellant submits that after death of father of the appellant, the appellant has applied for compassionate employment along with all the relevant documents and



submitted his application for compassionate employment before the Respondent no.4 on 04.03.2020. Thereafter, the Respondent no.4 vide letter no.493 dated 07.07.2020 rejected the claim of the appellant for compassionate appointment. The appellant has challenged the same in C.W.J.C No.5759 of 2021, which was dismissed vide order dated 18.01.2024 which is impugned in the present memo of appeal.

8. Learned counsel for the appellant has referred to paragraph nos. 58, 59, 60, 61 and 62 of the Full Bench judgment dated 18.04.2019 passed in **LPA No. 1305 of 2013 and analogous cases [reported in 2019 (2) PLJR 500(FB)]**, which is reproduced hereinafter:-

“58. In view of rule 23 of the 1976 Rules as also the decisions of this Court and the decision of the Supreme Court discussed above, we are of the opinion that if the second marriage was performed by the government servant while in service, the same would amount to misconduct committed in service. In case, an employee is proceeded against for such misconduct while in service and misconduct is proved, the government may be free to take any action against such employee. In case of punishment awarded to the government employee, the same may be a relevant consideration for denying the prayer for compassionate appointment of dependents of the deceased employee. However, if no disciplinary



proceeding is initiated for any misconduct against an employee while in service, after his death, his dependents cannot be denied compassionate appointment on the ground that while in service the employee had been guilty of misconduct. In other words, the claim for compassionate appointment to the dependents of the deceased employee can be denied only if the employee had committed illegalities and misconduct is proved and he is punished during his service career.

59. Having held so, when we look to the order dated 13.08.2012 passed by the learned Single Judge in CWJC No. 9329 of 2012, we find that while allowing the writ petition the learned Single Judge has quashed the circular no. 937 dated 23.06.2005 issued under the signature of the Joint Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna and directed the respondents to appoint the petitioner on compassionate ground on the post to which he is entitled.

60. We are of the opinion that the aforesaid circular dated 23.06. 2005 should not have been quashed in its entirety. We are also of the opinion that no direction could have been given by the learned Single Judge to the respondents to appoint the petitioner on compassionate ground on the post to which he is entitled. The learned Single Judge ought to have quashed the circular to the extent it prevented the children of the second wife



from being considered for appointment on compassionate ground. Similarly, instead of issuing direction to the respondents to appoint the petitioner on compassionate ground, the learned Single Judge ought to have directed the respondents to consider the case of the petitioner for appointment on compassionate ground as it is well settled position in law that appointment on compassionate ground is not a source of recruitment. It is exception to the general rule. The purpose of compassionate appointment is to prevent destitution and penury in the family of a deceased employee. The person seeking appointment on compassionate ground under a scheme has a right to be considered for appointment, which needs to be decided on the facts of each individual case keeping in mind as to whether the applicant needs all stipulations of the scheme including financial need and other requirements.

61. In view of the discussions made above, LPA Nos. 1305 of 2013 and 1608 of 2014 are dismissed. However, we modify the order dated 13.08.2012 passed by the learned Single Judge in CWJC No .9329 of 2012 as under:

The impugned circular no. 937 dated 23.06.2005 issued by the Personnel and Administrative Reforms Department, Government of Bihar, Patna stands quashed to the extent it prevents the children of the second wife from being



considered for appointment on compassionate ground. The respondents in LPA no. 1305 of 2013 are directed to consider the claim of the respondent-writ petitioner Chandra Shekhar Paswan for appointment on compassionate ground and issue appropriate orders as early as possible preferably within three months from the date of receipt/production of a copy of the order

62. Since the impugned circular no. 937 dated 23.06.2005 issued by the Government of Bihar, Patna has been quashed to the extent it prevented the children of the second wife from being considered for appointment on compassionate ground, we dispose of CWJC No. 11445 of 2010 with a direction to the respondents to consider the claim of the petitioner for appointment on compassionate ground on merit and pass appropriate orders in accordance with law as early as possible preferably within three months from the date of receipt/production of a copy of the order.”

9. Learned counsel for the appellant submits that in view of the Full Bench judgment as mentioned aforesaid, the appellant is entitled to be considered for appointment on compassionate ground on merit.

10. In view of the full bench judgment as mentioned above, the impugned order dated 18.01.2024, passed in C.W.J.C no. 5759 of 2021 is set aside, and the Letter No.493 dated 07.07.2020



(Annexure-5 to the writ petition) is also set aside to that extent it relates to disentitlement of the son of second wife for compassionate appointment.

11. Accordingly, the present LPA is disposed of in above terms.

12. The respondent authorities are directed to consider the case of the appellant for appointment on compassionate ground, in light of the order of the Full Bench dated 18.04.2019 passed in LPA No.1305 of 2013 on merit and pass an appropriate order in accordance with law as early as possible preferably within a period of three months from the date of receipt/production of a copy of the order.

13. Pending Applications (if any), shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Suruchi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.02.2026
Transmission Date	NA

