

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7273 of 2018

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Ravi Kant Priyadarshi S/o Late Raghunath Prasad R/o Mohalla-Veer Kunwar Singh, Gautam Nagar, Janta Road, P.S.-Gardanibagh, Patna.

.....Petitioner/s

Versus

1. The State Of Bihar through Secretary, Home Department, Old Secretariat, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Director General (Vigilance) Investigation Bureau, Patna.
4. The Superintendent of Police, Vigilance Investigation Bureau, Patna.

.....Respondent/s

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Service Laws—Compassionate Appointment—after death of father, son applied for compassionate appointment--claim of petitioner was rejected by the concerned authorities on basis that he is son from second wife—executive authority cannot ignore the judicial order passed in a Full Bench of this Hon’ble Court in which it was clearly says that the children of second wife, has to be considered on compassionate appointment—writ petition is disposed off with direction.

(Paras 4-6)

2019 (3) BLJ 347—Relied Upon.

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... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Lal Bahadur Singh, Advocate
For the Respondent/s : Mr. Raghwanand, GA-11
Mr. Pratik Kumar, AC to GA-11
For the Vigilance : Mr. Arvind Kumar, Spl. PP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 02-07-2024

Heard learned counsel for the petitioner, learned counsel for the State and learned Special Public Prosecutor for the Vigilance

2. The present writ petition has been filed for quashing the order contained in Memo No.67/350/96/P-3 dated 24.01.2018 by which claim of the petitioner for appointment on compassionate ground has been rejected on the ground that petitioner is the son of second wife.

3. Learned counsel for the petitioner submits that in this regard there is Full Bench decision of this Hon’ble Court



in case of **Bihar State Electricity Board Vs. Chandra Shekhar Paswan** reported in **2019 (3) BLJ page-347**, which clearly says that the children of second wife has to be considered on compassionate appointment.

4. Learned counsel for the State opposes the writ petition and submits that counter affidavit has been filed. He submits that in the counter affidavit a clear cut stand has been taken by the State that father of the petitioner was posted as Sub-Inspector in Vigilance Investigation Bureau, Patna, and during service period he died on 29.10.2006. He submits that after death of late Raghunath Prasad, the petitioner filed a representation before the Vigilance Investigation Bureau, Bihar, Patna, which was forwarded to I.G. Headquarter vide Letter No.5176 dated 22.08.2017 for needful, which is Annexure-P/4.

5. In the light of the submissions made, it transpires to this Court that the executive authority cannot ignore the judicial order passed in a Full Bench of this Hon'ble Court. It transpires to this Court that Hon'ble Full Bench in paragraph-60 of the judgment categorically held as under:

“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 the scheme has a right to be considered for appointment, which needs to be decided on 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.”

6. In the light of the order passed by Hon’ble Full Bench, it is clear to this Court that Annexure-P5, which is impugned in this petition is not sustainable in the eye of law. Therefore, it is set aside. The petitioner is directed to represent before the authority concerned within thirty days along with this order and respondent No.2, the Director General of Police, Bihar, Patna, is directed to take a decision in the matter of the petitioner following the principles laid down in the Full Bench within ninety days from the date of receipt/production of a copy of this order before him.

7. With this direction, the writ petition is disposed off.

(Dr. Anshuman, J)

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