

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8091 of 2017

1. Pintu Kumar Singh Son of late Vishwambhar Singh @ Bishambhar Singh Resident of Village- Jhauwa, P.O. Belwania, P.S. Bihiyan, District- Bhojpur at Ara.
2. Vijayanti Kunwar wife of late Vishwambhar Singh @ Bishambhar Singh Resident of Village- Jhauwa, P.O. Belwania, P.S. Bihiyan, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.
4. The Superintending Engineer, Mechanical Circle, Public Health Engineering Department, Patna, District-Patna.
5. The Superintending Engineer, Tube Well Circle, Public Health Engineering Department, Ara, District-Bhojpur at Ara.
6. The Executive Engineer, Public Health Mechanical Division, Public Health Engineering Department, Sasaram.
7. The District Magistrate-cum- Chairman, District Level Compassionate Appointment Committee, Sasaram, District-Rohtas at Sasaram.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Nityanand Mishra, Advocate
Mr. Abhishek Mishra, Advocate
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 15-09-2025

Heard learned counsel for the petitioners and learned
counsel for the respondents.

2. The petitioners have filed the instant writ
application for the following relief(s) :-

“(i) For issuance of a writ in the nature of



certiorari to quash and set aside the memo no.975 dated 31.8.2015 (Annexure-5 Series) issued by the District Magistrate, Sasaram (Respondent no.7) whereby and where under the application of the petitioner no. 1 relating to his compassionate appointment as well as his candidature for appointment on compassionate ground has been rejected in the light of letter no. 15783 dated 12.11.2014 issued by the Department of General Administration, Govt. of Bihar, Patna.

(ii) For further issuance of a writ in the nature of mandamus directing/commending the respondents concerned specially the respondent no. 7 to make appointment of the petitioner no. 1 on compassionate ground and to grant other consequential benefits for which the petitioners are entitled to in accordance with law.

(iii) For any other relief/reliefs, for which the petitioners are entitled to.”

3. The case of the petitioners in brief is that the father of petitioner no.1 who was working at the relevant time as a Pump Operator under the Executive Engineer, Public Health Mechanical Division, PHED, Sasaram died in harness on 19.11.2010 leaving behind his widow (petitioner no.2), three sons (including the petitioner no.1) and four married daughters.

4. The petitioner no.1 applied for appointment on compassionate ground in the year 2011 enclosing the affidavits and no objections from the petitioner no.2 as also the other



brothers and sisters. On the respondents demanding a fresh application, another application was filed by the petitioner no.1 on 31.12.2014.

5. It was the case of the petitioner no.1 that his full brother Mithilesh Kumar Singh who happens to be a Constable in the Central Reserve Police Force (C.R.P.F) has been living separately from the family since the year 2003 and he has also sworn an affidavit to the said effect. He has denied to maintain the joint family due to liability of his own wife and sons. The application of the petitioner no.1 was considered by the District Level Compassionate Appointment Committee under the Chairmanship of the District Magistrate, Rohtas at Sasaram and in light of letter no. 15783 dated 19.11.2014, the application of the petitioner no.1 was rejected by order dated 31.8.2015.

6. It is submitted by learned counsel for the petitioners that the respondents have committed illegality in rejecting the application for appointment on compassionate ground insofar as they did not take into consideration the affidavit filed by the full brother of petitioner no.1 making the statement that he has been living separately with his wife and children for the last five years and has no connection with the petitioner no.1, their mother and the other members of the



family. It was further submitted that while the death of the father of the petitioner no.1 had taken place on 19.11.2010, the respondents had incorrectly applied the departmental letter dated 19.11.2014 in deciding the application.

7. In response, it is submitted by learned counsel appearing for the respondents that on the death of the father of petitioner no.1 on 19.11.2010, the petitioner no.1 had filed an application in the year 2011. As certain details had not been furnished by the petitioner no.1, he was asked to submit a complete application which he did on 31.12.2014. The application was forwarded to the District Level Compassionate Appointment Committee which considered the same in its meeting held on 26.8.2015 and in light of the letter no.15783 dated 19.11.2014 issued by the General Administration Department, Government of Bihar rejected the application of petitioner no.1 for appointment on compassionate ground.

8. Heard learned counsel for the petitioners, learned counsel for the respondents and perused the material on record.

9. The case of the petitioners in brief is that the father of petitioner no. 1 having died in harness on 19.11.2010 while working as a Pump Operator under the Executive Engineer, Public Health Mechanical Division, PHED, Sasaram, the



petitioner no.1 applied for appointment on compassionate grounds. On a direction of the respondents, he filed another application on 31.12.2014 enclosing the necessary documents.

10. The fact not in dispute is that the father of petitioner no. 1 died leaving behind his widow, three sons and four married daughters. It is also not in dispute that his second son Mithilesh Kumar Singh is employed with the C.R.P.F. The case of the petitioner no.1 came to be considered by the District-Level Compassionate Appointment Committee headed by the District Magistrate and the same was rejected on 26.8.2015. The contents of the letter no.15783 dated 19.11.2014 of the General Administration Department provides that pursuant to the common order dated 27.7.2004 passed in CWJC No.6668 of 2003 and CWJC no. 7044 of 2003, in case any of the dependents of the deceased is gainfully employed, none of the other dependents would be entitled for appointment on compassionate ground.

11. Learned counsel for the petitioners has placed reliance on the clarification issued by the Personal and Training Department by its letter dated 30.5.2013 that in appropriate circumstances, even if there is an earning member in the family of the Government employee, the appointment on



compassionate ground of the other member can be considered with the prior approval of the Secretary/authority on being convinced about the amount being earned by the earning member and his connection with the family.

12. On the other hand, learned counsel of the respondents has placed reliance on the Full Bench judgment of this Court in the case of **Niraj Kumar Mallick vs. the State of Bihar; 2018 (2) PLJR 951.**

13. The relevant paragraph nos. 45 and 49 of the judgment in the case of **Niraj Kumar Mallick (supra)** reads as follows :-

“45. A perusal of Clause (d) of Annexure-A to the counter affidavit of respondent no. 2 in CWJC No. 17143 of 2016 would show that the clarification offered by the General Administration Department clearly states that where any of the dependents of a deceased Government servant is "gainfully employed" then irrespective of the fact whether he lives together or separate from other dependents, the benefit of compassionate appointment would not be available to any other dependents of the deceased Government servant. I am of the considered opinion that the clarification offered by the Department being a part of the policy decision governing the scheme of appointment on compassionate ground is based on judicial pronouncement of this Court in the case of Vishal



Kumar (supra) and it is fully in consonance with the object of compassionate appointment, it is also in tune with the views expressed by Hon'ble Supreme Court in a catena of decisions some of them I have referred hereinabove. It is also reasonable one and passes the test of Articles 14 and 16 of the Constitution of India. The clarification vide Clause (क) of Annexure-"A" to the counter affidavit of respondent no. 2 cannot be found fault with on the touchstone of Articles 14 and 16 of the Constitution of India.

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49. In my opinion the Division Bench judgment of this Court in the case of Vishal Kumar (supra) followed by learned Writ Court in the case of Mahabir Paswan (supra) and Jay Prakash Choudhary (supra) are laying down the correct law. In none of these writ applications, the petitioners have pleaded that their other siblings are in such an employment by which they are unable to get sufficient money so as to provide the both ends meet to these petitioners, therefore, we find no error in the impugned order rejecting the application of the petitioner(s) on the ground that their other siblings are in employment. I would, therefore approve the judgment dated 22.8.2016 passed by the learned Single Judge in CWJC No. 10236 of 2013 which has followed the judgment of the Hon'ble Division Bench in the case of Vishal Kumar (supra)''

14. Coming to the facts of the instant case, as stated above it is not in dispute that one of the sons of the deceased



employee and full brother of the petitioner no.1 namely Mithilesh Kumar Singh is in employment of the C.R.P.F. Thus, in view of the contents of memo no.15783 dated 19.11.2014 of the General Administration Department, Government of Bihar, the petitioner no.1 will not be entitled for appointment on compassionate ground.

15. So far as the affidavit filed by Mithilesh Kumar Singh is concerned, it does not state that he is in such an employment that he is unable to get sufficient money to maintain the petitioners herein. For this reason also, in view of the decision in the case of **Niraj Kumar Mallick** (*supra*), the petitioners would not be entitled for relief.

16. In addition to the above, it is to be noted that the death of the father of the petitioner no.1 took place in the year 2010. The case of the petitioners was considered and rejected on 31.8.2015. The petitioners waited for about 1 year 9 months before moving this Court for compassionate appointment in May, 2017. More than 14 years have passed since the death of the deceased employee on account of whose death compassionate appointment is being sought.

17. The Hon'ble Supreme Court has held that the object of compassionate appointment is to give succour to the



family of the employee dying in harness, the untimely death of the employee having left the family in penury and without any means of livelihood. Howsoever harsh the facts may appear, it has been more than 14 years since the death of the employee on account of which the compassionate appointment is being sought and it is also not in dispute that one of the sons of the deceased employee is employed in the C.R.P.F.

18. In view of the facts and circumstances of the case, the Court finds no merit in the instant writ application.

19. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
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Transmission Date	

