

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.840 of 2022

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Dhananjay Kumar Parvat Son of Late Jaleshwar Parvat, 304, Resident of Village - Sonwalia, P.O. Rajapatti, P.S. - Baikunthpur, District - Gopalganj, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Govt. of Bihar, Public Health Engineering Department, Bihar, Patna Vishweshraiya Bhawan, Bailey Road, Patna.
2. The Chief Engineer (Mechanical), P.H.E.D., Bihar, Patna, Vishweshraiya Bhawan, Bailey Road, Patna.
3. The Superintending Engineer, P.H. Mechanical Circle, Muzaffarpur, District - Muzaffarpur.
4. The Executive Engineer P.H. Mechanical division, Chapra, District - Chapra.
5. The District Officer, Saran Chapra, the chairman of district compassionate Committee, Saran at Chapra.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amit Anand, Advocate
For the Respondent/s : Mr. Arvind Ujjwal (SC-4)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 10-08-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. Learned counsel for the petitioner submits that the present writ petition has been filed for directing the respondents to consider the appointment of the petitioner as per the recommendation made by the District Compassionate Committee for a Class-III post on 24.06.2017, but in spite thereof, the petitioner was forced to join on a Class-IV post, which is contrary to the Rules.

3. Counsel further submits that the father of the



petitioner was working in the Public Health Mechanical Division, Chapra, and died in service on 29.05.2015. Counsel further submits that after the death of the petitioner's father, the petitioner filed an application along with all relevant documents before the competent authority on 21.09.2015 for considering his case for appointment on compassionate grounds. Counsel further submits that according to the then prevailing Rules, the Government had taken a policy decision vide Letter No. 11462 dated 24.08.2016, in which directions were issued to all the Heads of Departments to make appointments on compassionate grounds pursuant to the recommendation of the Compassionate Committee. Counsel further submits that the District Compassionate Committee recommended the name of the petitioner by virtue of Memo No. 741 dated 24.06.2017 and, as per his eligibility, he was entitled to be appointed to a Class-III post. Counsel further submits that the petitioner filed an application before the Superintending Engineer of the concerned Circle on 24.10.2017 raising his grievance with respect to appointment to a Class-III post as per the recommendation of the Compassionate Committee. Counsel further submits that when no response was made, the petitioner again raised an objection before the Principal Secretary, General Administrative Department, Bihar, Patna, on 26.06.2018 and again the General



Administrative Department, Government of Bihar, requested to the Principal Secretary of the P.H.E.D., Bihar, Patna, to consider the petitioner's case. Thereafter, despite several objections raised by the petitioner, the authority issued an appointment letter to the petitioner vide Memo No. 46 dated 08.01.2019 for appointment to a Class-IV post. Counsel further submits that the petitioner made various representations stating that he was entitled to a Class-III post and, therefore, his joining should be made on a Class-III post, but by the letter issued by the respondents, the petitioner was forced to join on a Class-IV post, and a threat was also made that if he did not join, then his appointment would be withdrawn.

4. Counsel further submits that the petitioner obtained information under the Right to Information Act in the year 2021 and, vide Annexure-8, Letter No. 422 dated 09.09.2021, the details of the vacancies came to light. Counsel further submits that from the details of the vacancies, it transpires that in the year 2017 there were five vacancies and, in the year 2018, there were four vacancies. Counsel further submits that in spite of nine vacancies being available for Class-III posts, the petitioner was forced to join on a Class-IV post. Counsel further submits that the forceful letter was issued in the teeth of Annexure-1, i.e., Letter No. 11462 dated 24.08.2016, issued by



the General Administrative Department, in which it was directed by the Government to all Government officials and Heads of Departments that the candidate recommended by the Compassionate Committee should be permitted to join on the post for which the recommendation had been made.

5. Furthermore, counsel relies on various judgments passed by this Hon'ble Court, bearing Letters Patent Appeal No. 776 of 2016 in CWJC No. 5231 of 2014 (**Manoj Kumar Vs. The State of Bihar & Ors.**), CWJC No. 14077 of 2024 (**Rakesh Kumar Vs. The State of Bihar & Ors.**), and CWJC No. 11360 of 2025 (**Chandan Kumar Vs. The State of Bihar & Ors.**).

6. Learned counsel for the State, on the other hand, submits that the appointment of the petitioner could not be made on the said post for the reason that he has already exhausted his entitlement to appointment on compassionate grounds. Once he opted to join on a Class-IV post, despite the fact that he had been recommended for appointment to a Class-III post, he cannot claim appointment on the said post.

7. Counsel further submits that vide order No. 8 dated 23.06.2026, this Hon'ble Court was pleased to express dissatisfaction with the counter-affidavit and the State was directed to file a fresh counter-affidavit. However, he submits



that in the said counter-affidavit, which the Hon'ble Court had discarded, there was a Rule annexed, i.e., Annexure-A. Counsel submits that he is not relying on any pleading made in the counter-affidavit, rather, he is relying only on the Rule which was issued by the Bihar Government in its Official Gazette, namely, the Public Health Engineering Department, Circle Clerical Cadre (Recruitment and Service Condition) Rules, 2016 (hereinafter referred to as the 'Rules of 2016').

8. Counsel further submits that according to the said Rule 85% post of the Lower Division Clerk shall be filled by direct recruitment and 15% posts shall be filled from amongst eligible Group 'D' employee and 10% posts from 85% posts of direct recruitment will be reserved for appointment on compassionate ground.

9. Counsel further submits that in the year 2017 there were five posts, and in the year 2018 there were four posts, i.e., total nine posts. The 10% post from 85% of nine posts, even if calculated, would not result in any post being available for compassionate appointment, not even one. Therefore, counsel submits that the stand of the respondent Executive Engineer is correct, as at that very time no post for compassionate appointment was available.



10. Upon perusal of the Bihar Gazette, it transpires to this Court that the said Rules were notified vide Notification dated 04.08.2016. In the Rules of 2016, Rule 5 is very much clear, which is as follows:-

“5. Recruitment-

(1) 85% posts of Lower Division Clerk shall be filled by direct recruitment and 15% posts shall be filled from amongst eligible Group 'D' employees passed intermediate (10+2) or equivalent with knowledge of computer operation and computer typing according to seniority. 10% posts from 85% posts of direct recruitment will be reserved for appointment on compassionate ground.

(2) All recruitments shall be made in the category of Lower Division Clerk on the recommendation of Bihar Staff Selection Commission.

(3) The Appointing Authority shall calculate vacancies on the basis of position as on 1st April each year and shall send requisition to the Commission by 30th April.

(4) The Commission shall advertise vacancies, and after selecting successful candidates on the basis of Competitive Examination, shall recommend names of the candidates in order of merit to the concerned Appointing Authorities. The merit list shall remain valid for one year from the date of receipt of recommendation in the department.

(5) After due scrutiny, the



Appointing Authority shall appoint the candidate on probation.”

11. Upon perusal of the records, this Court finds that the documents on which the petitioner is relying are Annexure-P/1, Letter No. 11462 dated 24.08.2016, issued by the Additional Secretary of the Government, and the document on which the respondents are relying is the Gazette Notification containing the Rules of 2016.

12. It further transpires to this Court that, according to Rule 18 of the Rules of 2016, all earlier circulars and directions issued in respect of the present category have been repealed. It is due to this reason, this Court is of the view that Letter No. 11462 dated 24.08.2016 has been repealed in light of the saving clause under Rule 18 of the Rules of 2016 mentioned above. As such, the basic letter on which the petitioner is relying is no longer in existence in light of the Rules of 2016, and hence, any relief by virtue of Annexure-1, i.e., Letter No. 11462 dated 24.08.2016, is not possible.

13. After going through the judgments passed by this Hon'ble Court on which the petitioner is relying, this Court finds that the judgments shall not help the petitioner in any manner. In the case of **Chandan Kumar** (supra), the decision of the District Compassionate Appointment Committee was subject



to scrutiny, whereas, in the present case, the decision of the District Compassionate Appointment Committee is not under challenge. Further, in that case, relief was granted on the basis of the notification dated 24.08.2016, whereas, in the present case, in light of the new Rules, the notification dated 24.08.2016 (Annexure-P-1 in the present case) is no longer in existence, as discussed above.

14. In the case of **Rakesh Kumar** (supra), a direction was made to the District Compassionate Appointment Committee to reconsider the case. In the present case, the decision of the District Compassionate Appointment Committee is not under challenge. Therefore, this case shall also not help the petitioner in any manner.

15. In the case of **Manoj Kumar** (supra), the appellant accepted the appointment on a Class IV post with an objection and, after joining, raised an objection that he was found fit for appointment on a Class III post. However, in the present case, due to the Rules of 2016, the post for compassionate appointment was not available. Rule 5(1) of the Rules of 2016 provides that 85% of the posts of Lower Division Clerk shall be filled by direct recruitment and 15% of the posts shall be filled by way of promotion. Out of the 85% of posts to be filled



through direct recruitment, only 10% of the posts shall be reserved for appointment on compassionate grounds.

16. Further, from Right to Information report which has been annexed in the writ petition by the petitioner, it is clear that in the year 2017 there were five posts, and in the year 2018 there were four posts, i.e., total nine posts prior to joining of the petitioner on Class IV post. The 10% post from 85% of nine posts, even if calculated, would not result in any post being available for compassionate appointment. It is due to this reason no post was available and the said letter on which the petitioner is relying i.e., letter dated 24.08.2016 was no more in existence.

17. As such, the judgments on which the petitioner is relying shall also not help the petitioner in any manner.

18. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J.)

Aman Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.08.2026
Transmission Date	NA

