

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.473 of 2023**

**In**  
**Civil Writ Jurisdiction Case No.10301 of 2020**

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1. Mukesh Kumar S/o Late Guneshwar Prasad Singh Permanent resident of Vill.- Gokhulchak, P.O.- Ramcharitra Maidan, P.S.- Harpur, District-Munger, State- Bihar, PIN- 811213, at present residing at Quarter No. CF/11, Barauni Refinery Township, District- Begusarai, State- Bihar, Pin- 851117.
  2. Shobha Devi, W/o Late Guneshwar Prasad Singh Permanent resident of Vill.- Gokhulchak, P.O.- Ramcharitra Maidan, P.S.- Harpur, District-Munger, State- Bihar, PIN- 811213, at present residing at Quarter No. CF/11, Barauni Refinery Township, District- Begusarai, State- Bihar, Pin- 851117.

... .. Appellant/s

Versus

1. The Union of India, through the Secretary, the Ministry of Petroleum and Natural Gas, Shastri Bhavan, New Delhi- 110001.
2. Indian Oil Corporation Limited, Through its Chairman, Registered Office at Indian Oil Bhavan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra, Pin code- 400051 and Corporate Office at Plot-3079/3, Sadiq Nagar, J B Tito Marg, New Delhi- 110049.
3. Director (HR), Indian Oil Corporation Limited, Corporate Office at Plot-3079/3, Sadiq Nagar, J B Tito Marg, New Delhi- 110049.
4. Director (Refineries), Indian Oil Corporation Limited, Scope Complex Core 27, Institutional Area, Lodhi Road, New Delhi- 110003.
5. Indian Oil Corporation Limited Barauni Refinery through its Chief General Manager (Human Resources), P.O.- Barauni Oil Refinery, District- Begusarai, Bihar, 851114.
6. Chief General Manager (Human Resources), Indian Oil Corporation Limited, Barauni Refinery, P.O.- Barauni Oil Refinery, District- Begusarai, Bihar, 851114.
7. Deputy General Manager (Human Resources), Indian Oil Corporation Limited, Barauni Refinery, P.O.- Barauni Oil Refinery, District- Begusarai, Bihar, 851114.
8. Manager (ER), Indian Oil Corporation Limited, Barauni Refinery, P.O.- Barauni Oil Refinery, District- Begusarai, Bihar, 851114.
9. Assistant Manager (ER) Indian Oil Corporation Limited, Barauni Refinery, P.O.- Barauni Oil Refinery, District- Begusarai, Bihar, 851114.

... .. Respondent/s

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**Appearance :**

For the Appellant/s	:	Mr. Mrigank Mauli, Sr. Adv. Mr. Amresh Kumar Sinha, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General
For IOCL	:	Mr. Ankit Katriar, Adv.

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**CORAM: HONOURABLE THE CHIEF JUSTICE  
and  
HONOURABLE MR. JUSTICE PARTHA SARTHY  
ORAL JUDGMENT  
(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date : 24-07-2025**

The present appeal has been filed under Clause -X of the Letters Patent of Patna High Court Rules, 1916, in which, the appellants have challenged the order dated 28.11.2022 passed by learned Single Judge in CWJC No. 10301 of 2020.

2. The brief facts leading to filing of the present appeal are as under:-

2.1 The appellants/original petitioners filed a petition under Article 226 of the Constitution of India in which they have prayed for direction to respondent nos. 2 to 9 to appoint petitioner no. 1 on a suitable post in Staff Category in Indian Oil Corporation Limited, Barauni Refinery or any other Refinery of Indian Oil Corporation Limited or any Division of Indian Oil Corporation Limited as per Superannuation Benefit Fund Scheme (in short 'SABF') Rehabilitation Scheme of the Indian Oil Corporation Limited.

2.2 It is the case of the petitioners that petitioner no. 1 completed B.Tech degree and now is currently pursuing I.T.I. in trade Electrician from the concerned institution. It is further stated that late Guneshwar Prasad Singh, father of petitioner no.



1 and husband of petitioner no. 2 died on 26.09.2018 while in employment of Baraui Refinery of Indian Oil Corporation Limited. At the time of his death, he was working as Mechanical Engineer (MLE) in L&D Department in Barauni Refinery.

2.3 It is the further case of the petitioners that the respondent Corporation has framed a scheme for rehabilitation of the family of the employee dying or suffering permanent total disablement while in service. As per the said scheme, three options have been provided, i.e. (designated R-1, R-2A and R-3) for the rehabilitation of the family. It is stated that the aforesaid scheme was explained to the petitioners and, thereafter, the petitioners opted for R-3.

2.4 It is also the case of the petitioners that petitioners belong to OBC category and required application form for exercising option no. R-3 of rehabilitation scheme was duly submitted and petitioner no. 2 nominated her son/petitioner no. 1 for employment under the aforesaid scheme. It is further stated that vide communication dated 28.01.2019 issued by the concerned officer of the respondent Corporation, it was informed to petitioner no. 2 that petitioner no. 1 is more than 26 years of age, hence, he cannot be appointed under Officer Category under the aforesaid scheme.



2.5 Petitioners have also averred that in the meeting held on 01.02.2019, the claim of petitioner no. 1 was rejected on frivolous ground that, as per the existing guidelines, there is no provision for induction of Graduate Engineer in Staff Category. It is the case of the petitioners that respondents never offered to provide petitioner no. 1 an opportunity of acquiring the requisite qualification by extending the normal waiting period of three years upto seven years.

2.6 The petitioners, therefore, filed the captioned writ petition.

2.7 The learned Single Judge, vide impugned order dated 28.11.2022, dismissed the writ petition filed by the petitioners and, therefore, the petitioners have filed the present appeal.

3. Heard Mr. Mrigank Mauli, learned senior counsel for the appellants and Mr. Ankit Katriar, learned counsel for the respondent /Indian Oil Corporation Ltd.

4. Mr. Mrigank Mauli, learned senior advocate appearing on behalf of the appellants would mainly contend that the learned Single Judge has not properly appreciated the fact that the respondents were required to grant period of three years upto seven years to the appellant no. 1 for acquiring the



qualification prescribed in the scheme. It is also contended that the learned Single Judge has wrongly placed reliance upon the provisions contained in notes to para 6(i) i of the WRQ and thereby wrongly observed that as the appellant no. 1/petitioner no. 1 is possessing higher professional qualification, i.e. Bachelor of Engineering (B.E.), he is not eligible for the benefit given under the scheme. Learned counsel would further submit that now petitioner no. 1 has acquired qualification of I.T.I. as per the scheme. He, therefore, urged that the impugned order be set aside and thereby the respondents be directed to grant benefit to appellant no. 1 as per option R-3 exercised by the appellants under the aforesaid scheme.

5. On the other hand, learned counsel appearing on behalf of the respondents has opposed the present appeal. Learned counsel would mainly contend that the learned Single Judge has not committed any error while dismissing the writ petition filed by the present appellants / petitioners.

6. Learned counsel contends that appellant no. 1 is possessing higher qualification i.e. B.E. and as per the provisions contained in notes to para 6(i) i of qualification parameters under open advertisement category, he is not entitled for grant of period of three years upto seven years to



for acquiring the qualification prescribed in the scheme.

7. It is further submitted that, as per the scheme in question, more particularly R-3, the option which, the appellants exercised, the qualification would be Matric + I.T.I. in the related trades. It is also contended that as the petitioner no. 1 was possessing the higher qualification, his case cannot be considered. It has further been contended by the learned counsel that the time for acquiring qualification of three years to maximum limit of seven years, can be granted to such candidate who is not possessing the requisite qualification (I.T.I.). In the present case, appellant no. 1 was already possessing the higher qualification of B.E., therefore, there was no question of granting time of three years to seven years for acquiring qualification of I.T.I. Learned counsel for the respondents has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of *Canara Bank vs. Ajitkumar G.K.*; reported in *AIR 2025 SC 1232*.

8. We have considered the submissions canvassed by the learned counsel for the parties. We have also perused the materials placed on record. At the outset, we would like to refer the relevant clause of SABF, i.e., Scheme for rehabilitation of the family of the employee dying or suffering permanent total



disablement while in service:-

*“R-1 -----*

*R-2A -----*

*R-3 For employment of otherwise eligible, suitable and dependent unmarried son/daughter (which shall also include son/daughter legally adopted prior to the death of the employee”, the following provisions shall apply:*

*a) Employment of eligible son/daughter must be sought within 6 months of the death or permanent disablement of the employee, and be sought in the prescribed format. Employment under the scheme will be offered within a period of three years.*

*b) A dependent son/daughter on possessing the prescribed qualification and fulfilling the job specifications will be considered for employment provided there is a regular induction level vacancy of a type, within three years of the death/permanent disablement of the employee, for which a person of his/her age, background, qualifications attainments and physical fitness would have been otherwise considered.”*

*c) The minimum qualification to be eligible under Option R -3 of SABF shall be matric +ITI in the related Trades or other higher induction level qualification as per existing policy.*

*d) In case the dependent ward does not possess the induction level qualification, as stated above, he/she shall be provided an opportunity to acquire*



*such qualification by extending the existing normal waiting period of three years to a maximum limit of seven years, based on merit of each case to be approved by Divisional Hqrs.*

*e) -----*

*f) -----*

*g) -----*

*h) -----*

*I) -----*

9. Clause -10 of SABF provides that no provision of this scheme will be deemed to constitute any claim, right or entitlement on the part of anybody. Further, recruitment action 6(i) provides for qualification parameters under the open advertisement category for various posts under the respondent Corporation. Notes to para 6 (i) i provides as under:-

*“Candidates possessing higher professional qualification such as BE, MBA, CA, LLB, MCA or any such equivalent qualification shall not be eligible.*

10. Keeping in view the aforesaid provisions contained under the scheme as well as the policy of the respondent Corporation for recruitment, if the contentions raised by learned counsel for the parties are examined, it is revealed that on 01.02.2019 counseling session was called for by the respondents. It was pointed out to the appellants/petitioners that as per the existing recruitment framework, there is no provision



for induction of a graduate engineering workman into Staff Category. Petitioner no. 1, in fact, has completed his graduate engineering degree and is possessing B.E. and, therefore, he cannot be inducted on the post in question. We are of the view that the extension of time for acquiring I.T.I. for a period of three to seven years cannot be granted to petitioner no. 1. In fact, the said clause is incorporated in the scheme for granting benefit to the nominated ward of the deceased employee who is undergoing his/her education and is not yet eligible. Thus, under the policy of appointment on compassionate ground, it was decided by the respondent Corporation to allow such ward of the deceased employee to complete his education and get the minimum qualification within an extended period of seven years. In the present case, the appellant no. 1 is already possessing the degree of B.E., therefore, there was no question of granting him time for acquiring the qualification of I.T.I. We are of the view that the aforesaid contention is misconceived.

11. Even from the notes to para 6 (i) i, which we have already reproduced herein-above, it transpires that candidates possessing higher professional qualification of BE, MBA, CA, LLB, MCA or any such equivalent qualification shall not be eligible. Thus, in the present case, appellant no. 1/ petitioner no.



1 who already possessed qualification of B.E., which is a higher qualification, is not entitled to get the benefit of R-3 of SABF. In the case of **Canara Bank** (Supra), the Hon'ble Supreme Court has observed in paragraphs 44 and 45 as under:-

*“44. As pertinently held in B. Kishore (supra), indigence of the dependants of the deceased employee is the fundamental condition to be satisfied under any scheme for appointment on compassionate ground and that if such indigence is not proved, grant of relief in furtherance of protective discrimination would result in a sort of reservation for the dependents of the employee dying-in-harness, thereby directly conflicting with the ideal of equality guaranteed Under Articles 14 and 16 of the Constitution. Also, judicial decisions abound that in deciding a claim for appointment on compassionate grounds, the financial situation of the deceased employee's family must be assessed. In a situation otherwise, the purpose of the scheme may be undermined; without this evaluation, any dependent of an employee who dies while in service might claim a right to employment as if it is heritable.*

*45. The ratio decidendi of all these decisions have to be read in harmony to achieve the noble goal of giving succour to the dependants of the employee dying-in-harness, who are genuinely in need, and not with the aim of giving them a post for another*



*post. One has to remember in this connection the caution sounded in Umesh Kumar Nagpal (supra) that as against the destitute family of the deceased there are millions of other families which are equally, if not more, destitute”.*

12. We have also gone through the reasoning recorded by learned Single Judge while passing the impugned order. We are of the view that the learned Single Judge has not committed any error while dismissing the petition filed by the present appellants / petitioners. Hence, no interference is required in the present appeal.

13. The appeal is, accordingly, dismissed.

14. Interlocutory Application(s), if any, shall also stand disposed of.

**(Vipul M. Pancholi, CJ)**

**( Partha Sarthy, J)**

sunilkumar/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	N/A

