

IN THE HIGH COURT OF JUDICATURE AT PATNA

Rahul Kumar

vs.

The State of Bihar & Ors.

Civil Writ Jurisdiction Case No.23997 of 2019

11 September, 2023

(Hon’ble Mr. Justice Rajiv Roy)

Issue for Consideration

Whether the petitioner is entitled to compassionate appointment despite the fact that his mother was in government service at the time of his father's death?

Headnotes

Compassionate appointment is not a vested right and the same relates to the immediate relief to the family of the deceased government employee as a consequence of his/her death. (Para 9)

On the day the father of the petitioner died, no immediate economic crisis was faced by the family as the lady-wife was in job and remained so for next six years. (Para 5)

Petition is dismissed. (Para 11)

Case Law Cited

Not cited

List of Acts

Constitution of India

List of Keywords

Compassionate Appointment; Government Servant; Economic Crisis; Eligibility Criteria; Notification No. 13293/2019; Death in Harness; Dependent Employment; Service Benefits

Case Arising From

Death-in-harness claim for compassionate appointment following the demise of a government employee (Instructor at I.T.I., Sheikhpura) in 2013.

Appearances for Parties

For the Petitioner : Mr. Arun Kumar, Advocate

For the Respondents : Mr. Chitranjan Sinha (PAAG-2)

Headnotes Prepared by Reporter:Amit Kumar Mallick, Advocate

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23997 of 2019

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Rahul Kumar Son of Late Anil Choudhary, Resident of Village-Aliganj, Post
Office-Aliganj, POlice Station-Chandradeep, District-Jamui.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Labour
Resources, Government of Bihar, Patna.
2. The District Magistrate, Sheikhpura.
3. The Deputy Collector, (Establishment), Sheikhpura.
4. The Incharge Principal, Industrial Training Institute (I.T.I.), Sheikhpura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar, Advocate
For the Respondent/s : Mr.Chitranjan Sinha (PAAG-2)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
Date : 11-09-2023

Heard learned counsel for the petitioner and the State.

2. The petitioner has moved this Court for following
reliefs:-

*“That the petitioner prays for issuance
of a writ in the nature of mandamus commanding
and directing upon the Respondent concerned
specially Respondent No. 2 to decide the claim of
the petitioner for appointment on any suitable post
as the father of petitioner died in harness on*



01.11.2013 working as Instructor in I.T.I. Sheikhpura and petitioner being eldest son made application for compassionate appointment in year 2014 but till date claim of petitioner has not been finally decided by the District Compassionate Committee, Sheikhpura causing much financial crunch in the family.

3. The admitted facts on record is/are:

4. The father died as an Instructor with the ITI Sheikhpura on 01.11.2013 on that day, his wife Manju Kumari was serving as Teacher with the Upgraded Middle School Rampur which is a Government School. She retired on 11.05.2019.

5. From the aforesaid facts, it is clear that on the day the father of the petitioner died, no immediate economic crisis was faced by the family as the lady-wife was in job and remained so for next six years having been retired only in the year 2019.

6. As per the notification no. 13293 dated 05.10.2019 if both the parents are in service and on the date of death of anyone of them, the other spouse is in service, no compassionate appointment can be extended/granted.



7. Learned counsel for the petitioner has taken this Court to letter no. 13573 dated 18.11.2021 (Annexure 6 to the reply to the Counter Affidavit to show that in case both of them are in service and on the date of death of either of the spouse, if the other is retired, the case of compassionate ground can be considered.

8. This Court has already incorporated the facts above according to which on the date the father of the petitioner died, the lady wife was in service and remained so for the next six years.

9. Further, In the same circular, it has been incorporated that if both the husband and wife are in service and anyone is dead and the other one is still serving, the compassionate appointment can not be extended to the dependent. A host of Judgment/ Order of the Apex Court as well as Patna High Court are there where it has been observed that the compassionate appointment is not a vested right and the same relates to the immediate relief to the family of the deceased government employee as a consequence of his/her death.

10. However, in this case, since admitted fact is/are that the petitioner's mother remained in service, when the father



died, no relief can be granted to the petitioner.

11. The writ petition stands dismissed.

(Rajiv Roy, J)

Jyoti/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	18.09.2023
Transmission Date	

