

IN THE HIGH COURT OF JUDICATURE AT PATNA

Madho Sharma

vs.

The State of Bihar & Ors.

Civil Writ Jurisdiction Case No.11092 of 2015

24 August, 2023

(Hon’ble Mr. Justice Mohit Kumar Shah)

Issue for Consideration

Whether appeal filed by the petitioner before Divisional Commissioner and decision of the District Compassionate Committee in rejecting the application of petitioner for appointment on compassionate ground are correct or not?

Headnotes

Service Law—Compassionate Appointment—denial/rejection—father of the petitioner died in harness—whereafter, petitioner had filed an application for appointment on compassionate ground—District Compassionate Committee had rejected the application of the petitioner for grant of appointment on compassionate ground on the ground that the petitioner had started studies after lapse of five years from the date of death of his father, hence he was not eligible to be appointed within five years of the death of his father.

Held: aim and object of the scheme of compassionate employment is to enable the family to tide over the immediate financial crisis, which it faces at the time of death of the sole breadwinner, a situation which is no longer prevalent in present case—writ petition dismissed.

(Paras 2, 5 and 7)

Case Law Cited

Umesh Kumar Nagpal vs. the State of Haryana and Others, (1994) 4 SCC 138; State of Gujarat vs. Chitraben, (2015) 14 SCC 574—Relied Upon.

List of Acts

Service Law.

List of Keywords

Compassionate Appointment; died in harness, aim and object of the scheme of compassionate employment is to enable the family to tide over the immediate financial crisis; which it faces at the time of death of the sole breadwinner.

Case Arising From

From rejection order from Divisional Commissioner for appointment of petitioner on compassionate appointment.

Appearances for Parties

For the Petitioner/s: Mr. Ram Prawesh Kumar, Advocate.

For the Respondent/s: Mr. Raghwanand, GA-11; Mr. Rajnish Shandilya, AC to GA-11.

Headnotes Prepared by Reporter: - Abhas Chandra, Advocate.

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 11092 of 2015

Madho Sharma S/o of late Phulo Sharma resident of village Paras Mani P.s Sarai district Purnea.

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. The Divisional Commissioner, Purnea Division, Purnea.
- 3. The District Magistrate, Purnea.
- 4. The Superintendent of Police, Purnea.
- 5. The Additional Collector, Purnea
- 6. The District Establishment Deputy Collector, Purnea
- 7. The Sub-Divisional Officer Banmanki, Purnea.
- 8. The District Chowkidar Officer, Purnea.
- 9. The Incharge Officer, Chowkidar Banmankhi Sub Divisional, Purnea
- 10. The Officer In Charge , Sarsui Police Station District- Purnea.

... .. Respondent/s

Appearance:
For the Petitioner/s : Mr. Ram Prawesh Kumar, Advocate
For the State : Mr. Raghwanand, GA-11
Mr. Rajnish Shandilya, AC to GA-11

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 24-08-2023

1. The present writ petition has been filed for quashing the decision of the District Compassionate Committee, taken in the meeting held under the chairmanship of the District Magistrate, Purnea, as contained in Memo dated 15.07.2011 whereby and whereunder the application of the petitioner for grant of



appointment on compassionate ground has been rejected and also for quashing the order dated 10.07.2013 passed by the Divisional Commissioner, Purnea Division, Purnea in Miscellaneous Appeal No. 14 of 2012 whereby the Appeal filed by the petitioner has been rejected.

2. The brief facts of the case, according to the petitioner, is that the father of the petitioner died on 30.06.2002 in harness, while he was posted as Chaukidar at Sarsi Police Station, whereafter the petitioner had filed an application on 22.11.2002 for appointment on compassionate ground which was forwarded by the Sub-Divisional Officer, Banmankhi to the District Chaukidar Officer, Purnea vide letter dated 22.11.2002, however, the District Compassionate Committee in its meeting held on 29.09.2009, had rejected the application of the petitioner for grant of appointment on compassionate ground on the ground that the petitioner had started studies after lapse of five years from the date of death of his father, hence he was not eligible to be appointed within five years of



the death of his father. The said decision of the District Compassionate Committee is contained in memo dated 15.07.2011. The petitioner had then filed an appeal before the Divisional Commissioner, Purnea Division, however, the same has also stood dismissed by the impugned order dated 10.07.2013.

3. The learned counsel for the petitioner has contended that though the petitioner had submitted educational qualification certificate of him being 8th pass, however, in the checklist it has been wrongly mentioned as 6th pass, hence the petitioner was possessing educational qualification, required for being appointed on compassionate ground.

4. *Per contra*, the learned counsel for the respondent-State has submitted that since the time limit for filing the application for appointment on compassionate ground as also for acquiring the requisite educational qualification is five years from the date of death of the deceased, the petitioner



ought to have acquired the requisite educational qualification within a period of five years of the death of his father, however, since he did not do so, he was not eligible for being appointed as Chaukidar on compassionate ground inasmuch as he had started studies after a lapse of five years of the death of his father, hence his case for appointment on compassionate ground has been rejected. It is further submitted that now since about 21 years have lapsed pursuant to the death of the father of the petitioner, it would not be appropriate to grant compassionate employment to the petitioner at this juncture.

5. I have heard the learned counsel for the parties and perused the materials on record. This Court finds that if any case of appointment on compassionate ground is entertained after a long delay, not only existing vacancies may be filled up by regular appointment but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependent of the deceased employees may crop up, hence what is



material for consideration is the time when the relief is to be granted to a family in distress and not to reserving a job for one of the dependents. In this connection, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of **Umesh Kumar Nagpal versus the State of Haryana and others**, reported in **(1994) 4 SCC 138**, paragraph no. 6 whereof is reproduced herein below:-

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

6. It would also be apt to refer to yet another judgment rendered by the Hon'ble Apex Court in the case of **State of Gujarat vs. Chitraben**,



reported in **(2015) 14 SCC 574**, paragraph no. 9
whereof is reproduced herein below:-

“9. It is not a matter of dispute, that the respondent has possessed only the qualification of IVth standard, and does not possess the qualification of “Secondary School Certificate” examination, as has been postulated in Rule 3(ii) of the Notification dated 16-3-2005. It is therefore imperative for us to conclude, that the respondent was not qualified for appointment against Class IV posts, when her husband died in harness on 13-6-2006. When the respondent applied for appointment on compassionate grounds on 17-7-2006, it was necessary for her, to fulfill the qualification stipulated in the Notification dated 16-3-2005. Since, admittedly the respondent did not fulfill the aforesaid qualification, she was not eligible to claim appointment on compassionate grounds, under the resolution dated 10.3.2000.”

7. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above as also considering the fact that the main aim and object of the scheme of compassionate employment is to enable the family to tide over the



immediate financial crisis, which it faces at the time of death of the sole breadwinner, a situation which is no longer prevalent in the present case, at this moment of time, this Court does not find any merit in the present writ petition, hence the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
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