

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14475 of 2017

Radhe Shyam Paswan Son of Late Bishwanath Ram, Resident of Village-Balathua, P.O.-Morsarai, P.S.-Sasaram, District-Rohtas at Sasaram, Bihar, Pin Code-821113.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Department of Home, Patna.
4. The Inspector General of Police Government of Bihar, Department of Home, Bihar, Patna.
5. The Deputy Inspector General of Police, Rohtas Range, Dehri-on-Sone, District- Rohtas at Sasaram Bihar.
6. The Additional Collector, Rohtas at Sasaram, District-Rohtas Bihar.
7. The District Magistrate, Rohtas at Sasaram, District-Rohtas Bihar.
8. The Senior Superintendent of Police, Rohtas at Sasaram, District-Rohtas Bihar.
9. The Superintendent of Police, Rohtas, Dhiri-on-Sone, District-Rohtas Bihar.
10. The Deputy Collector Establishment, Rohtas at Sasaram, District-Rohtas Bihar.
11. The Senior Deputy Collector, District General Section Rohtas at Sasaram, District- Rohtas Bihar,
12. The Sub Divisional Officer, Sasaram, District- Rohtas (Bihar).
13. The District Welfare Officer, Rohtas at Sasaram, District- Rohtas (Bihar).
14. The Circle Officer, Sasaram, District Rohtas at Sasaram (Bihar).
15. The Assistant Commissioner, Commercial Taxes, Rohtas at Sasaram, District- Rohtas (Bihar).

... .. Respondent/s



Appearance :

For the Petitioner/s : Mr. Waliur Rahman, Advocate
Mr. Manoj Kumar
For the Respondent/s : Md. N. H. Khan, SC- 1
Ms. Irshad, AC to SC- 1

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 19-11-2025

Heard learned counsel for the parties.

2. The petitioner has filed the instant writ application for the following reliefs:

“i. To issue an appropriate writ / order / direction in the nature of the certiorari quashing and setting aside the decision taken at Serial No.05 of the Memo No. 882/सत० dated 07.08.2017 of the Proceeding of the Meeting of the District General Section of Collectorate, Rohtas (Sasaram) convened 22.07.2017 for compassionate of appointment of the dependents of the deceased Chaukidars/ Dafadars presided over by the District Magistrate, Rohtas, Sasaram by which the claim of the Petitioner on being appointed on compassionate ground has been rejected merely on the ground that the brother of the Petitioner namely Sudama Paswan is an employee of Bihar Police.



ii. To issue an appropriate writ/order/direction, in the nature of mandamus commanding/ directing the Respondents to issue offer of appointment letter to the Petitioner according to his educational qualification on compassionate ground as the father of the Petitioner died in harness on 03.04.2016 on the post of Chaukidar, Sasaram Police Station, District Rohtas at Sasaram.

iii. To any other relief or reliefs for which the Petitioner are entitled to.”

3. The case of the petitioner in brief is that his father who was working on the post of *Chaukidar*, Sasaram Police Station died in harness on 3.4.2016.

4. The petitioner being a *madhyama* pass and having the requisite qualification filed his application for appointment on compassionate ground on 25.7.2016.

5. The application of the petitioner was considered by the Compassionate Committee considering the applications for appointment of the dependents of the deceased *chaukidars* and *dafadars*. The Compassionate Committee in its meeting held on 22.7.2017 rejected the case of the petitioner for his appointment on compassionate ground on the ground of the petitioner's brother being in employment of the Bihar Police. It



is against this order dated 22.7.2017 of the Compassionate Committee that the petitioner has preferred the instant writ application.

6. It is submitted by learned counsel for the petitioner that the rejection of the petitioner's application on the ground of his brother being employed with the Bihar Police is unjust, arbitrary and discriminatory. It is submitted that the petitioner has the required qualification for appointment and he cannot be denied appointment on the ground of his brother working in the Bihar Police.

7. The application is opposed by learned counsel appearing for the respondents. It is submitted by learned counsel for the respondents that the application of the petitioner for appointment on compassionate ground on the death of his father was put up for consideration by the Compassionate Committee, who, in its meeting held on 22.7.2017, rightly rejected the application of the petitioner for the reason of the petitioner's brother being employed with the Bihar Police.

8. Heard learned counsel for the parties and perused the material on record.

9. The relevant facts in brief are that the father of the petitioner who was working as a *chaukidar* under the



Sasaram Police Station died in harness on 3.4.2016. Soon thereafter, the petitioner filed an application for his appointment on compassionate ground on 25.7.2016. The said application of the petitioner came to be considered by the Compassionate Committee in its meeting held on 22.7.2017 and the application of the petitioner was rejected on the ground that his brother Sudama Paswan was employed with the Bihar Police.

10. It may be observed here that the Hon'ble Supreme Court in the case of *Indian Bank and Ors. vs. Promila and Anr.; (2020) 2 SCC 729* has held that compassionate appointment is not an alternative to the normal course of appointment. There is no inherent right to seek compassionate appointment. The objective for appointment on compassionate ground is only to provide solace and succour to the family of the deceased employee in difficult times as a result of the death of the employee in harness.

11. In the case of *Umesh Kumar Nagpal vs. State of Haryana and Ors.; (1994) 4 SCC 138*, the Hon'ble Supreme Court held as follows:

“As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment



nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial



condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family



engendered by the erstwhile employment which are suddenly upturned.”

12. It may further be observed here that in matters relating to appointment on compassionate ground, the General Administration Department, Government of Bihar came out with a clarification bearing no. 15783 dated 19.11.2014 which was considered by a Full Bench of this Court in ***Niraj Kumar Mallick vs. The State of Bihar and Ors., 2018 (2) PLJR 951.*** The clarification provided 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. The Hon’ble Court held that the said clarification was based on the views expressed by the Hon’ble Division Bench of this Court in the case of Vishal Kumar vs. The State of Bihar and Ors.; 2004 (2) PLJR 453 and in consonance with the law laid down by the Hon’ble Supreme Court in the case of Umesh Kumar Nagpal (supra).

13. Thus, in view of the aforesaid facts, this Court finds no error in the decision of the Compassionate Committee rejecting the application of the petitioner for his appointment on compassionate ground on account of his brother being employed



with the Bihar Police.

14. The application is dismissed.

(Partha Sarthy, J)

sauravkrsinha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.11.2025
Transmission Date	NA

