

(2007) 07 PAT CK 0127
In the Patna High Court
Case No : LPA No. 709 of 2005

Anil Kumar

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 04-07-2007

Acts Referred:

Citation : (2007) 4 PLJR 511

Hon'ble Judges : Narayan Roy, J; Madhavendra Saran, J

Bench : Division Bench

Advocate : Rajendra Prasad Singh and Rajeev Kumar Singh, for the Appellant;
Yogendra Pd. Sinha, for the Respondent

Final Decision : Allowed

Judgement

1. Heard counsel for the parties. This Letters Patent Appeal is directed against the order dated 2.5.2005 passed by the learned Single Judge of this Court in C.W.J.C. No. 3115 of 2005 rejecting the prayer of the appellant to set aside the order passed by the State authorities refusing to appoint him on compassionate ground.
2. The writ petitioner-appellant applied for his appointment on compassionate ground on account of death of his father who died in harness. Prayer of the writ petitioner-appellant, however, was rejected by the authorities vide order dated 26.10.2004 on the ground that there were sufficient means for survival of the family as wife of the writ petitioner-appellant was already employed.
3. The writ application, however, was dismissed by the learned Single Judge of this court on the ground that since wife of the writ petitioner was gainfully employed in the State service, the family had the sufficient means to survive and therefore, he was not entitled for appointment on compassionate ground.
4. It is submitted by Mr. Rajendra Prasad Singh, learned counsel for the appellant that wife of the appellant was employed much prior to the death of the father of the appellant and according to 1991 Rules framed by the State Government, the

appellant was entitled for compassionate appointment as he was one of the dependents and had no means of livelihood. Learned counsel further submitted that wife of the appellant was residing separately with her parents and she never supported the family and, therefore, the appellant was in dire need of appointment on compassionate ground to support the bereaved family members. In this connection, Mr. Singh drew our attention to Annexures 3 and 4 of the writ application saying that the matter about living separately of the wife of appellant was inquired into by the State authorities and it was reported that the wife was living separately since long in her parents' home and she was not supporting the family.

5. From a bare look of Annexures 3 and 4 of the writ application, it appears that the wife of the appellant was living separately in her Maik and certain formalities of execution of Panchnama was prepared by the husband for separation but in fact there had been no judicial, separation. The report as contained in Annexure 3 throws some light on the question of living the wife of the appellant separately and also on the question that they were not having good relationship. The requirement of Rule, 1991 of the State Government, in this view of the matter, would be a negation on the ground of employment of wife of the appellant.

6. The purpose of compassionate appointment is to provide immediate succour to the bereaved family and Rule 1991 in this regard is very specific that one of the dependents of the deceased should be given appointment for immediate succour to the bereaved family. The factum of employment of wife of the appellant, in this view of the matter, would hardly be a ground to refuse appointment on compassionate ground in the given facts and circumstances of the case.

7. Regard being had to the facts and circumstances of the case as noticed above, the findings recorded by learned Single Judge of this court, in our view, would not be sustainable. The matter, therefore, requires fresh consideration by the State authorities. In the result, this appeal is allowed. Order impugned is set aside and the matter is remitted back to the concerned respondent to reconsider the matter of appointment of the appellant in accordance with the rules framed by the State Government from time to time within a period of three months from the date of receipt/production of a copy of this order.