
(2005) 10 PAT CK 0012
In the Patna High Court
Case No : CWJC No. 7264 of 2003

Jyoti Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 21-10-2005

Acts Referred:

Citation : (2005) 4 PLJR 507

Hon'ble Judges : S.N. Hussain, J;Nagendra Rai, J

Bench : Division Bench

Advocate : Amrendra Narayan, for the Appellant; S.N. Pathak and Meena Singh, for the Respondent

Final Decision : Allowed

Judgement

1. This writ application has been referred by a learned Single Judge to the Division Bench to decide the question as to whether in a case where husband and wife both are Government employees and husband has retired and wife has died in harness, on an application being filed, the dependent is entitled to compassionate appointment or not? In view of the policy of the Government when both husband and wife are Government employees, then on the death of one of them, no appointment on compassionate ground can be provided.

2. Admitted facts are that the father and mother of the petitioner both were in Government service. While, his father was a Jansewak, his mother was A.N.M. His father, admittedly, superannuated from service on 31.1.1995 and his mother died in harness on 18.9.2000 and, thereafter, the petitioner filed an application for compassionate appointment on 14.10.2000 claiming compassionate appointment in view of the Government policy, a copy of which has been annexed as Annexure 6.

3. Claim of the petitioner has been rejected by the order, contained in Annexure 7 at item No. 28, on the ground that in view of clause (anga) when the husband and wife both are in Government service and if one dies, there can be no

compassionate appointment of the dependent of the deceased employee.

4. Compassionate appointment is not granted as a matter of right. The very object of compassionate appointment is to mitigate the hardship caused to the family due to untimely death of the bread earner. If both husband and wife are in government employment and one dies in harness and other continues in service, then there is no ground for providing appointment on compassionate ground to the dependent for the simple reason that other bread-earner is still alive. Clause (anga) of the Government policy, as contained in Annexure 6, runs as follows:

5. According to the said provision, when both husband and wife are in Government employment and one dies while other remains in employment, then no benefit of compassionate appointment can be given to any of the dependents of the deceased employee. Thus, the condition precedent for non-applicability of the aforesaid provision is that at the time of death of one spouse, the other spouse is in employment. If the other spouse has already retired then the said clause, on the face of it, appears to be non-applicable.

6. The view taken by the learned Single Judge in the case of Dilip Kumar Das Vs. The State of Bihar and Others, is a correct law.

7. Accordingly, the impugned order, as contained in Annexure 7 at item No. 28 is quashed and the matter is remitted to the authorities concerned to consider the question of compassionate appointment of the petitioner afresh taking into consideration the settled law, namely, whether the family of the deceased family is in need of compassionate appointment or not; or it has means to survive. In the result, this writ application is allowed with the aforesaid observation/direction.