
(2001) 03 PAT CK 0019
In the Patna High Court
Case No : C.W.J.C. No. 2143 of 2001

Most Phul Kumari Devi and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 12-03-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2001) 2 PLJR 395

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Advocate : Basant Kumar Tripathy, for the Appellant; S.S. Nayer Hussain for State, for the Respondent

Judgement

S.N. Jha, J.—This writ petition on behalf of five petitioners has been filed for direction upon the respondents to appoint one of them on compassionate ground on the death of late Ramchandra Ram, who died in harness on the post of Peon in the Revenue and Land Reforms Department of the State Government. When the case was taken up, learned Government Pleader stated that despite communications by letter as well as by telephonic message, instructions have not been furnished to him. It may be mentioned that the hearing of the case was adjourned on two occasions to enable the Government Pleader to take instructions from the respondents for final disposal of the case. Having regard to the object of compassionate appointment it is imperative that appointment, if any, is made as early as possible, otherwise not only the purpose of compassionate appointment gets frustrated, the appointment also becomes vulnerable to challenge on the ground of infraction of Articles 14 and 16 of the Constitution. In this view of the matter, I do not think it would be proper to delay the disposal of the case.

2. It transpired in course of hearing that the deceased has left behind two wives and children born from both. The petitioners are second wife and her children. Counsel for the petitioners submitted that the first wife and/or her son have no

objection to the appointment of one of the petitioners on compassionate ground. He stated that the son is still minor and, therefore, not fit for appointment. I do not wish to go into this, for the first wife or her son is not party to the case. However, it may be mentioned that submission of the counsel that they have no objection to the appointment of one of the petitioners does not seem to be correct. Paragraphs 11 and 14 of the writ petitions contain averments suggesting existence of inter se dispute between them. In paragraph 11 it has been stated that the respondents are adamant not to appoint any of the petitioners and, instead, appoint Mostt. Akli Devi i.e. the first wife or her children. In paragraph.14 it has been stated that the only son of the first wife is a habitual drinker and anti-social.

3. As to who between the two wives and/or her children should be appointed on compassionate ground, or any of them should at all be appointed on compassionate ground, is to be considered by the concerned authorities and not by the High Court. Compassionate appointment is intended to provide financial succour to the bereaved family on account of sudden death of the bread-earner in harness and, therefore, it is of utmost importance that the financial condition of the family should be such that without appointment of one of the dependents of the deceased government servant the family may not sustain itself, in other words, compassionate appointment is not to be made as a matter of course in every case of death of the government servant in harness.

4. In the above premises of law and fact, I am of the view, direction should be issued to the concerned authorities, particularly the Secretary, Department of Revenue and Land Reforms, Government of Bihar, to take necessary steps so that the claim on behalf of the bereaved family for appointment of one of them may be considered at the earliest in accordance with law and in the light of the observations made hereinabove. Decision in this regard should be taken preferably within two months of receipt production of a copy of this order. With the above observations and directions, the petition is disposed of.