

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1309 of 2014
IN
Civil Writ Jurisdiction Case No. 9863 of 2013**

Nawal Rai, son of Late Jay Rai, resident of village and Post Panji Arwa, P.S.
Sugauli, District - East Champaran

.... Appellant

Versus

1. The State of Bihar through Home Commissioner Bihar, Patna
2. The Collector East Champaran, Motihari
3. Superintendent of Police, East Champaran, Motihari
4. Sub - Divisional Officer, East Champaran, Motihari
5. Anchal Adhikari, Block Sugauli, District - East Champara, Motihari
6. District Compensate Appointment Committee, East Champaran at Motihari

.... Respondents

Appearance :

For Appellant : Mr. Rajendra Kishore Prasad, Advocate
Mr. Ratan Kumar Sinha, Advocate
For the Respondents : Mr. Monish Kumar 3, AC to SC 2

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 26-11-2015

The appellant, in the present appeal, under Clause 10 of the Letters Patent of this Court, is aggrieved by an order passed by a learned single Judge of this Court, on 13.05.2014, in CWJC No. 9863 of 2013, whereby an application filed by the appellant, under Article 226 of the Constitution of India, has

been dismissed.

2. The appellant had filed the aforesaid writ application seeking direction to the respondents to appoint him to the post of Chowkidar, on compassionate ground, consequent upon the death of his father in harness on 7.11.2000.

3. Certain facts, which are crucial for adjudication of the present appeal, are not at all in dispute. The father of the appellant was working as Chowkidar under Sugauli Police Station of the district of East Champaran, Motihari. He died on 7.11.2000. The appellant is said to have applied for his appointment on compassionate ground. Consideration for his appointment on compassionate ground was, somehow or the other, got delayed. The appellant, too, did not take recourse to any other legal remedy for the delay in consideration of his appointment on compassionate ground or for his appointment on compassionate ground. His case was, however, considered by the District Compassionate Appointment Committee on 30.05.2008. The proceedings of the meeting of the said Appointment Committee have been brought on record by way of Annexure A to the counter affidavit. The reason for rejection of the appellant's claim for appointment on compassionate ground has been mentioned as his being an illiterate. It has been mentioned in the said decision that as per the Rules



framed for appointment on the post of Chowkidar, the passing of VIIIth standard in the school examination is the minimum qualification prescribed for appointment, whereas the appellant was an illiterate. The said Rules were framed in the year 2006, under Article 309 of the Constitution of India, and have been brought on record by way of Annexure B to the counter affidavit filed on behalf of the respondent-State of Bihar in the writ proceedings.

4. Nearly five years after rejection of his claim for appointment on compassionate ground, the appellant filed writ application before this Court, on 7.5.2013, seeking following direction :-

"For issuance of a writ in the nature of Mandamus commanding the Respondent authority to appoint the petitioner on the post of Chowkidar on the basis of compassionate ground and further direct the Respondent authority to consider the claim of the petitioner after placing the matter before District Compassionate Committee or direct the Respondent to appoint the petitioner with immediate effect on the post of Chowkidar on compassionate ground and/or issue any appropriate writ/writs, order/orders, direction/directions, commanding the Respondents to consider the claim of the petitioner as early as possible."

5. The learned single Judge has dismissed the writ application mainly on two grounds. Firstly, the writ application was filed belatedly and, secondly, the ground of rejection, as mentioned in the decision of the District Compassionate Appointment Committee, could not be said to be illegal or

invalid.

6. This is the background in which the present appeal has been preferred against the said order of the learned single Judge.

7. Learned counsel, appearing on behalf of the appellant, submits that the appellant had no knowledge about the rejection of his claim in the year 2008 and that the appellant had been filing representations to the authorities from time to time for his appointment on compassionate ground. He has drawn, in this regard, our attention to Annexure 6 series to the writ petition. He has also submitted that the Rules, laying down the qualification of 8th pass for appointment as Chowkidar were framed in the year 2006, whereas the appellant's claim deserved to be treated on the basis of the facts and law prevalent as on the date of the death of his deceased father.

8. We do not find any valid reason to interfere with the order under appeal inasmuch as we do not find any cogent explanation on record for approaching this Court thirteen years after the date of death of the appellant's father even if it is accepted that the appellant had no knowledge about the decision of the District Compassionate Appointment Committee, taken in the year 2008 rejecting his claim for compassionate appointment.



9. The schemes for appointment on compassionate ground in the event of death of a Government servant, have been framed to mitigate the hardship caused due to the death of the bread-earner of the family. Such appointments are made to provide immediate succor to the family of the deceased so that the family may not have to suffer penury, because of sudden demise of the sole bread-earner.

10. Approaching a High Court with an application made under Article 226 of the Constitution of India belatedly seeking to invoke extraordinary jurisdiction of judicial review under Article 226 of the Constitution, without any plausible explanation, is fatal to the claim raised by the person in such proceedings, as has been held and reiterated by the Apex Court as well as this Court in a catena of decisions.

11. In the matter of compassionate appointment, a belated writ application, without any plausible explanation for delay cannot be entertained as the very purpose of grant of compassionate appointment, that is, to provide immediate succor to the family of the deceased, vanishes. Secondly, the appellant is, admittedly, an illiterate person. The plea that he does not fulfill the basic eligibility criteria for appointment as Chowkidar has not been countered by learned counsel for the appellant.

12. In fact, learned counsel for the appellant has not

been able to show that the appellant could be appointed against any post under the State Government despite being an illiterate.

13. In the circumstances pointed out above, we do not find any infirmity, legal or factual, in the view taken by the learned Single Judge that the ground for rejection of the appellant’s claim for his appointment on compassionate ground, as mentioned in the decision of the District Compassionate Appointment Committee, was valid.

14. We do not find any merit in this appeal which is accordingly dismissed.

(I. A. Ansari, ACJ)

(Chakradhari Sharan Singh, J)

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