

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1853 of 2015

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Usha Kumari D/o Late Rambabu Yadav Resident of Mohalla - Old
Kankarbagh, Gate No- 14 P.O + P.S- Lohiya Nagar, District - Patna-
800020.

.... Petitioner/s

Versus

1. The National Institute of Technology, Patna through Its Director,
National Institute of Technology , Patna.
2. The Director, National Institute of Technology, Patna.
3. The Registrar, National Institute of Technology, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Siya Ram Sahi, Sr. Advocate.

For the Respondent/s : Mr. Y.V.Giri, Sr. Advocate.
Mr. Sanjay Kumar Giri, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 17-03-2015 Heard learned counsel for the parties as with regard to
the following relief prayed in this writ application:

*"1(i) For issuance of an appropriate writ commanding the
Respondents to appoint the petitioner on compassionate
ground against class-IV post under National Institute of
Technology, Patna."*

2. Having regard to the fact that the father of the
petitioner working as a Darban in the National Institute of
Technology (hereinafter referred to as 'the NIT') had died way
back on 01.05.2006 and this writ application for compassionate
appointment filed by the petitioner, the daughter of the deceased



employee, on 28.01.2015 and that too much after the rejection of the application filed by the mother of the petitioner on 13.07.2009, which was filed within time on 31.05.2006 and such decision whereof has remained unchallenged till date, this Court will have no difficulty in holding that the claim of the petitioner of compassionate appointment was wholly belated and was not at all fit to be entertained.

3. As a matter of fact, Mr. Y.V.Giri, learned senior counsel appearing on behalf of the National Institute of Technology, informs this Court that the family has also sufficient means of subsistence and that the widow, after rejection of her case for appointment on compassionate ground, was also given with full death-cum-retirement benefit of her husband including family pension.

4. This part of submission of Mr. Giri has also not been controverted by Mr. Siya Ram Sahi, learned senior counsel appearing on behalf of the petitioner.

5. This Court would also note the submission of Mr. Giri that in the existing policy of the NIT dated 16.01.2013 for appointment on compassionate ground, it has been categorically presented that no second consideration will be made for appointment on compassionate ground after rejection of claim by

NIT and since the case of the mother of the petitioner was already considered for compassionate appointment and was rejected on 13.07.2009, the petitioner's case for her appointment in view of her application filed only on 18.04.2013 after enforcement of new policy on 16.01.2013, vide Annexure-A to the counter affidavit for her compassionate ground cannot be considered.

6. In the considered opinion of this Court, even this part of submission of Mr. Giri has merit and, therefore, rejection of the claim of the petitioner for appointment of compassionate ground does not suffer from any error.

7. Mr. Sahi, however, wants to make a premium on the aspect that there is no time limit fixed for appointment on compassionate appointment in NIT and, in fact, Notification dated 16.01.2013 of the NIT does not prescribe any time limit for filing an application for compassionate appointment.

8. In the considered opinion of this Court, the very object of compassionate appointment being only to provide immediate relief to the family of the deceased employee even if there is no fixed time limit for filing of application of compassionate appointment in the policy dated 16.01.2013, the delay of a period of seven years in filing such application will itself be a good and valid ground on which the respondents could

have rejected the claim of the petitioner for appointment on compassionate ground.

9. Thus, it would become clear that the family of the deceased employee has been surviving for a period of more than seven years before such claim of compassionate appointment raised by the petitioner even without questioning the rejection of claim of compassionate appointment of the mother of the petitioner.

10. The whole object of compassionate appointment was to give immediate relief to the family of the deceased employee which has survived now for a period of more than seven years. Thus, there would be no need now for this Court to direct the respondents to consider the compassionate appointment of the petitioner afresh.

11. This Court also cannot shut its eyes on the uncontroverted fact placed by the respondents that the policy of NIT dated 16.01.2013 also lays that only 5% posts of total 190 posts of non-teaching employee i.e. only ten posts are yearmarked for appointment on compassionate ground whereas 32 persons have already been continuing in service of NIT on the basis of compassionate appointment. Thus, even the non-availability of vacant sanctioned post for appointment of the petitioner on

compassionate ground is also by itself a justified reason for non-appointing the petitioner.

12. Finally, this Court would also find that when the father of the petitioner had died in harness on 01.05.2006, the petitioner was aged about 11 years, her date of birth being 12.02.1995. Thus, she was not even a major so as to be offered appointment on compassionate ground and, in fact, she became major only on or after 12.02.2013. Law in this regard has been settled by a Division Bench of this Court in the case of **Anil Kumar Singh Vs. State of Bihar & Ors.** reported in **1993 (1) PLJR 414** that no reservation can be made for appointment of a minor on compassionate ground.

13. As a matter of fact, when the mother of the petitioner had filed her application for appointment on compassionate ground on 31.05.2006 soon after the death of father of the petitioner, she was only a student of Class VI inasmuch as she had passed her matriculation examination in 2010 and Intermediate examination in 2012. Thus, when the case of the mother of the petitioner for her compassionate appointment was rejected on 13.07.2009 even the petitioner was not qualified and eligible and that is why the petitioner or even her mother did not assail such order dated 13.07.2009 which had already become

final and binding in absence of its assailed. Thus, merely because the petitioner became eligible in 2013 on being major or qualified by passing Intermediate examination, she cannot claim compassionate appointment as a matter of right.

14. That being so, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Sujit/-

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