

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4131 of 2015

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Sudhir Mochi age 25 years son of late Baleshwar Mochi , resident of Village -
Sohgikushper, P.O. Sona , Gopalpur, P.S. Gaurichak , town and district Patna.

.... Petitioner/s

Versus

1. The State of Bihar , through Principal Secretary , Urban Development department , Government of Bihar, Patna.
2. The District Magistrate Patna cum Chairman District Establishment Committee for Compassionate appointment
3. The Commissioner Patna Municipal Corporation Patna.
4. The Executive Officer, Patna City Anchal , Patna Municipal Corporation.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Laxmi Narayan Das, Adv.

For the Respondent/s : Mr. Alok Kumar

For the PMC : Mr. Ranjeet Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 19-03-2015

Heard learned counsel for the parties.

The prayer of the petitioner in this writ application reads as follows:-

- "1. ----- for direction to the respondents to give appointment to the petitioner on compassionate ground upon sudden death of his father late Baleshwar Mochi who died in harness while working as sweeper in the Office of Respondent No.4 and for a direction to find out the Original Service Record of late father of the petitioner as well as the application of the petitioner along with the original documents.

Learned counsel for the petitioner in support of the aforesaid prayer has straightway referred to Annexure 1 & 2 to make out a case that the case of the petitioner is pending final consideration before the authorities of the Patna Municipal Corporation for

appointment on compassionate ground ever since August 2009 when the petitioner claims to have filed his application for appointment on compassionate ground after becoming major in relation to the death of his father which had taken place on 16.12.2007.

When this Court has put a question to the learned counsel for the petitioner as to whether there is any proof of receipt of such application in the prescribed proforma, the answer which comes is very interesting. Learned Counsel says the petitioner had submitted the original application before the Executive Officer and, thereafter, the Executive Officer had made a query from the Officer In-charge seeking criminal antecedent report of the petitioner for the purpose of considering the case of the petitioner for compassionate appointment. Therefore, this document contained in Annexure-1 dated 4.12.2009 by itself should be deemed to be an admission on the part of the authorities of the Patna Municipal Corporation that the petitioner had actually filed an application for appointment on compassionate ground.

In considered opinion of this Court the moot question would however be as to where is the requirement under the government policy or even otherwise adopted by the Corporation that after a person has filed an application for appointment on compassionate ground, his such application shall be sent for verification of criminal antecedent. It definitely goes to show that

something more than that which is meeting the eyes.



In that view of the matter, this Court also cannot place its reliance on an application filed by the mother of the petitioner as contained in Annexure-2. The only other document enclosed with the writ application to claim that there was a file opened in the office of the Corporation in which letter of the Executive Officer contained in memo no. 210(Establishment) dated 2.2.2011 was sent by the Executive Officer to the Municipal Commissioner in the Head office of the Corporation for considering the case of the petitioner for appointment on compassionate ground can also not lead to such such interference. Thus from the documents enclosed by the petitioner by way of Annexure 1 & 2 it is not proved that he had actually filed an application for appointment on compassionate ground in the prescribed time limit.

In that view of the matter, this Court would find it difficult in directing the authorities to consider the case of the petitioner for appointment on compassionate ground because firstly it has to be found as to whether the petitioner had filed an application within the prescribed period of five years from the date of death of the father of the petitioner. Let it be noted that the Executive Officer had no power of making appointment as such appointment could have been made only under the order of the Municipal Commissioner. It, therefore, becomes a matter of enquiry as to whether any application was filed

by the petitioner before the Executive Officer and as to whether there is any official record to prove this fact.

In that view of the matter, this Court would direct the Municipal Commissioner to first hold an enquiry and find out as to whether an application for appointment on compassionate ground was filed by the petitioner within the prescribed period of five years as laid down under the government policy dated 5.10.1991 which has been adopted by the Patna Municipal Corporation for making appointment on compassionate ground. If in course of such enquiry, it is found that there was an application filed by the petitioner in the prescribed proforma meeting all the requirements within a period of five years,, the Corporation must take necessary decision by way of considering the claim of appointment of the petitioner for appointment on compassionate ground.

This exercise, however, must be completed within a period of six months from the date of production/receipt of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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