

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23824 of 2013

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Rahil Akhtar, Son of Late Jamil Akhtar, Resident of Haroon Nagar, Sector - II,
Phulwarisharif, Police Station - Phulwarisharif, District - Patna

.... Petitioner

Versus

1. The Union of India through Secretary, Government of India, Central Board of Excise and Customs, New Delhi
2. The Chief Commissioner, Central Excise, Central Revenue Building, Veerchand Patel Marg, Patna
3. The Commissioner, Central Excise, Central Revenue Building, Veerchand Patel Marg, Patna
4. The Additional Commissioner (P & V), Central Excise, Central Revenue Building, Veerchand Patel Marg, Patna
5. The Deputy Commissioner, Central Excise, Central Revenue Building, Veerchand Patel Marg, Patna
6. The Joint Commissioner (P & V) , Central Excise (H), Central Revenue Building, Veerchand Patel Marg, Patna
7. The Assistant Commissioner (P & V), Central Excise, Central Revenue Building, Veerchand Patel Marg, Patna
8. Arshadi Akhtar, W/o Late Jamil Akhtar, Haroon Nagar, Sector-II, Phulwarisharif, P.S. Phulwarisharif, District- Patna.

.... Respondents

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Appearance :

For the Petitioners : Mr. Bindhyachal Singh, Advocate.

For the Respondents : Mr. Sanjay Kumar, Asst. Solicitor General.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 27-10-2015

Heard learned counsel for the petitioner
and Sri Sanjay Kumar, Asst. Solicitor General for the
Union of India.

2. Petitioner is aggrieved by order dated
21.03.2013 passed by Central Administrative



Tribunal, Patna Bench in O.A. No. 936 of 2011 (Annexure-1), whereunder challenge made to the order dated 21.06.2011 passed by Joint Commissioner (P & V) Central Excise (H), Patna refusing compassionate appointment to the petitioner has been affirmed.

3. It appears father of the petitioner served as Superintendent in the Central Excise. He left for his heavenly abode on 09.01.2002. Application for compassionate appointment filed 10 years after the death of father of the petitioner was rejected by the Joint Commissioner under order dated 21.06.2011 holding that on the date of death i.e. 09.01.2002 his elder brother, sister were 23, 19 years of age, yet the family did not apply for compassionate appointment and petitioner after having become major chose to apply for such appointment after 10 years of his father's death on the ground that in the year 2002 1998 Circular was in vogue whereunder no time limit was fixed to apply for compassionate appointment.

4. At the time of death of father of the petitioner Circular of 1998 may be in vogue but petitioner was required to have applied for

compassionate appointment within a reasonable time and not after becoming major. In response to such finding recorded by the Tribunal counsel submitted that petitioner's mother had earlier applied soon after the death of her husband stating that case of the petitioner be considered as and when he becomes major.

5. Authorities have rightly refused to take into account any such blocking of avenues of appointment as compassionate appointment is never a mode of appointment. Petitioner having applied for compassionate appointment after 10 years, his request for such appointment has been rightly rejected as if petitioner and his family could tide over the crisis for 10 years there was no justification to seek compassionate appointment after 10 years. We see no reason to entertain the writ petition, which is dismissed.

(V.N. Sinha, J)

(Aditya Kumar Trivedi, J)

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