

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.25779 of 2013

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1. Most. Kismati Devi W/O Late Umesh Pandey R/O Village Bhaluari, P.O. Badihashankarpur, P.S. Indrapuri, District Rohtas
2. Nitish Kumar Pandey S/O Late Umesh Pandey R/O Village Bhaluari, P.O. Badiha Shankarpur, P.S. Indrapuri, District Rohtas

.... Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Govt. Of Bihar
2. The Principal Secretary General Administration Department, Bihar, Patna
3. The D.G. cum I.G. Of Police, Bihar, Patna
4. The D.I.G. Of Police, Sahabad Range, Dehri on Sone, Rohtas
5. The D.M., Rohtas
6. The S.P., Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akash Chaturvedi

For the Respondent/s : Mr. Tripurari Nath Ambastha, AC to GP 14

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 15-09-2015

Father of petitioner no.2 was a constable, who died in harness way back in the year 2003. Keeping the above fact in mind, the SP, Rohtas appointed petitioner no.2 as a Bal Aarakshi in terms of the provision under relevant police order. There is no dispute about such an appointment and the petitioner attaining the age of majority. When the case of the petitioner for appointment as a Constable arose, his physical attributes were not found to meet the standards needed for such appointment. The respondent authorities decided to reject his claim for appointment as a Constable. But there is a policy for considering appointment of such candidates on a class III or a class IV post depending on his qualification etc.

The matter lingered with the respondents for quite a while but finally they decided to reject his claim on the ground that his claim was time barred. Time frame fixed under the compassionate appointment circular is five years.

The reason for rejection of the claim of the petitioners seems to be misplaced. There is no delay from the facts noticed above. Death happened in the year 2003. Appointment of the petitioner as a Bal Aarakshi was made on 31.12.2004. The appointment of the petitioner no.2 as Bal Aarakshi was part of the policy of compassionate appointment. On gaining majority, the petitioner ought to be accommodated suitably in the category which he could fulfill. The rejection of the claim of the petitioners, therefore, on the ground of delay and limitation seems to be misplaced.

The impugned order contained in Annexure-11 dated 21.9.2011 is quashed. Writ application is allowed with a direction upon the respondents to consider the matter afresh within a reasonable time frame, preferably before 31st of December, 2015.

(Ajay Kumar Tripathi, J)

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