

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17963 of 2015

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1. Sayita Kumari aged about 21 years daughter of late Tulsi Mandal resident of Village- Jaynagar, P.S Jaynagar, District Madhubani, State Bihar

.... Petitioner/s

Versus

1. The State of Bihar through he Principal Secretary, Water Resources Department, Government of Bihar, Old Secretariat, Patna.
2. The Collector, Chapra, District Chapra.
3. The Chief Engineer, Water Resources Department (North), Patna.
4. The Executive Engineer, Jal Nisaran, Pramandal (Chapra) Dist Chapra.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar

For the Respondent/s : Mr. N.K.Agrawal, AC to GP 30

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 19-04-2016

Employment and that too under the State is a very coveted position which every unemployed youth in this country is looking forward to. In the present case, repeated attempts have been made on behalf of one family member or the other of an erstwhile employee, who died in harness on 1.8.2007 while working on the post of a Daftary in the office of Executive Engineer at Chapra, to be appointed on compassionate ground.

In the present case, the petitioner, who claims herself to be the daughter of the erstwhile employee, namely, Tulsi Mandal, made an application for compassionate appointment. The District Compassionate Appointment Committee considered the same and



vide decision, which has been annexed as part of Annexure- 14, her claim has been rejected on the ground that the application on behalf of the petitioner was filed only on 23.9.2014. Since death of the father of the petitioner happened on 1.8.2007, in terms of the policy relating to compassionate appointment issued by the Department of Personnel and Administrative Reforms, her claim was held to be time barred.

The writ application has now been filed with certain pleadings that application had been filed earlier, may be it was not in the prescribed format and, therefore, the petitioner filed a fresh application only to reiterate that position on 23.9.2014. Therefore, the ground for rejection is a misplaced ground and requires reconsideration.

The respondents in their counter affidavit have categorically and emphatically stated that no application of any kind was received on behalf of the petitioner earlier. The effort on the part of the petitioner is to only improve upon her case by bringing on an unverifiable document as proof of application, which is suspect. The respondents have taken cognizance of the application filed on behalf of the petitioner, which has been considered and rejected.

The Court is also not very impressed or enthused by the pleading or annexure annexed to show that application was filed earlier on behalf of the petitioner. That position seems to be further



corroborated for the reason that effort was made by the mother of the petitioner earlier to beget appointment for her son by filing an application in the year 2013. When that application was rejected then the petitioner was brought in the front for making a claim for compassionate appointment in the year 2014. Obviously, both petitioner and her brother could not be claiming the benefit simultaneously.

The law is well settled in this regard right up till Hon'ble Apex Court that compassionate appointment is neither a constitutional nor a statutory right of a claimant. In fact, such appointments verges on the border of violation of Articles 14 and 16 of the Constitution of India. However, the Courts have not struck it down so far only for the reason that if there is a policy and that policy subsists then such claims can be considered but strictly in terms of the policy.

It is in the public interest that a 5-year period has been laid down in the policy notified by the State Government for making a claim for compassionate appointment. However, if a claim has been raised after the cut-off period then surely the policy will intervene and no person can claim a right for consideration or for appointment despite the same being contrary to the policy or the breach of the limitation time laid down in this regard.

It is a desperate effort naturally on behalf of the family

to beget employment under the State, that too without competing with the other eligible employable people as such. The Court, therefore, will not exercise its discretion by interfering with the reason for such rejection since it does not suffer from any vice much less irrationality.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

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AFR/NAFR	NAFR
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