

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.975 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10681 of 2008
Along with
Interlocutory Application No.4093 of 2015**

Prabhash Kumar Mandal, son of Late Bhudava Mandal, resident of Village-Kishan Toli, P.S.- Sarsi, District- Araria presently residing at Village- Simarbani, P.S.- Bhargama, District-Araria.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The District Magistrate cum Chairman, District- Committee for Appointment on Compassionate Ground, Araria.
3. The District Education Officer, Araria.
4. The District Education Officer, Purnea.
5. The Headmaster, Uchch Vidyalaya Simarbani District- Araria.
6. The Secretary, Department of Personnel and Administration Reforms, Government of Bihar, Patna.

.... Respondents- Respondent/s

Appearance :

For the Appellant/s : Mr. Bhola Prasad, Advocate

For the Respondent/s : Mr. R. B. N. Singh, A.C. to G.A.-10

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 24-08-2016

Re.: Interlocutory Application No.4093 of 2015 and Letters

Patent Appeal No.975 of 2015

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 3rd of May, 2011 whereby the writ application filed by the appellant claiming appointment on compassionate ground was dismissed.

The present Letters Patent Appeal has been filed along with an Interlocutory Application seeking condonation of delay of 3 years and 297 days. The only ground to seek condonation of delay is that the appellant was not informed of the decision by his counsel.

We have heard learned counsel for the parties and find no merit either in the Interlocutory Application for condonation of delay or in the Letters Patent Appeal. The learned Single Bench passed an order after hearing the counsel for the appellant, when no merit was found in the writ application. Therefore, if the counsel for the appellant has not informed him, the appellant is to seek his remedy against his counsel, but that cannot be made a ground for condonation of delay.

On merits, the father of the appellant died in the year 1990 when the appellant was 10 years. The request of the appellant for appointment on compassionate ground was considered by the District Compassionate Appointment Committee in its meeting held on 1st of August, 2005 which was rejected as the application was filed beyond the period prescribed, i.e. five years. The learned Single Judge has found that though the appellant was minor, but the mother could very well have applied on compassionate ground even within five years of the death. Reliance was placed upon a Division Bench decision of this Court reported as Anil Kumar Singh Versus The State of Bihar & Ors. 1993(1) PLJR 414. It has been held that if a minor is not turning major

within the period prescribed, i.e. five years, he will not be eligible for appointment on compassionate ground.

The manner in which the appellant has conducted the proceedings shows that he is not in financial distress. He allowed almost four years to pass after the judgment was announced which shows lack of any financial stringency.

We do not find any error in the order passed by the learned Single Bench or any sufficient cause in the application for condonation of delay. Therefore, the Interlocutory Application for condonation of delay and the Letters Patent Appeal both are dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

AFR/NAFR	
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