

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15780 of 2013

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Firoj Ansari, S/O Late Saleem Ansari, R/O Village - Mishrawaliya, P.S. Jalalpur,
District - Saran

.... Petitioner

Versus

1. The State Of Bihar, through Principal Home Secretary, Old Secretariat, Patna.
2. Director General of Police, Patna.
3. Inspector General of Police, Rail, Patna.
4. Superintendent of Police, Rail, Rail Zila, Jamalpur.

.... Respondents

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Appearance:

For the Petitioner/s : Mr. P.K. Singh, Adv.
Mr. A.K. Singh, Adv.
For the Respondent/s : Mr. A.A.G.-14

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-12-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In the present case, the petitioner is claiming
compassionate appointment on the ground of death of his father,
who was working as Constable No.C/168 in the Indian Railways, a
member of G.R.P.

3. When the father of the petitioner was posted at
Jamalpur Railway Station, a communal riot took place during that
period he became traceless and his body could not be recovered.
This was informed by the S.R.P. vide letter dated 27.08.1990 to his



higher Officer about the missing of the father of the petitioner and ultimately, the Government has declared him to be dead by making payment of retiral dues to the wife of the deceased-employee vide letter dated 06.09.2012. In the said letter at the top it has been mentioned as “ दंगा में मृत / लापता ” which itself indicates that the father of the petitioner was a victim of the communal riot. Thereafter, several applications were filed by the wife of the deceased-employee, making request for appointment of her son-present petitioner on compassionate ground, but nothing concrete result has been come out.

4. In the counter affidavit, the State has taken a stand that in the present case the object of granting compassionate appointment is frustrated as the family of the deceased-employee is no longer in penury and in financial distress. The basic crux of the counter affidavit is that as quite long time has already been spent, in such circumstances, there is no need to grant relief for compassionate appointment.

5. In support of his contention, learned counsel for the State has placed reliance on the judgment of this Court in the case of ***Kama Devi vs. The State of Bihar, through the Director General-cum-Inspector General of Police***, reported in 2010(4)



PLJR, 274 to show that delay defeats the right.

6. In normal course, the stand of the State is correct if a person is not coming forward for compassionate appointment within a reasonable period, the purpose of compassionate appointment itself is defeated. In **Umesh Kumar Nagpal vs. State of Haryana and Ors.** reported in **(1994) 4 S.C.C., 138**, the Hon'ble Supreme Court has delineated the scope of the compassionate appointment. But in the present case, the situation is quite different as the father of the petitioner became traceless during the communal riot. The authority has waited for seven years, and then on presumption, the father of the petitioner has been declared dead, in the year 2012. So, the yardstick given in the aforesaid case does not apply to the present case.

7. Looking to the peculiar situation of the present case, it will be relevant to place the judgment of this Court in the case of **Smt. Kaushalya Devi vs. The State of Bihar and Ors.**, reported in **2009(2) P.L.J.R., 325**, there the Circular letter No.9739 dated 26.11.1997 has been taken into consideration as well as several other judgments especially the judgment passed in **Md. Noor Alam vs. The State of Bihar and Others, 2007(4) PLJR, 200**, wherein the Circular dealing with this type of cases.



8. In such circumstances, let the respondent No.4-the Superintendent of Police, Rail, Jamalpur, consider the case of the petitioner in the light of the Circular dated 26.11.1997 including the judgment passed by this Court in *Smt. Kaushalya Devi (surpa)*.

9. For convenience, let the petitioner file a proper application before the respondent No.4-the Superintendent of Police, Rail, Jamalpur, annexing the copy of this order and other supporting documents. The Superintendent of Police, Rail, Jamalpur will consider the same and take a decision within a period of three months from the date of filing of such application.

10. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	17.12.2016
Transmission Date	

