

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.902 of 2017
IN
Civil Writ Jurisdiction Case No. 7618 of 2016**

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Shatrudhan Prasad S/o Late Ram Chandra Prasad R/o Village - P.O. - Nautan, P.S. -
Nautan, Dist - Siwan.

.... Appellant/s

Versus

1. The Chairman, Central Bank of India Chandra Mukhi Nariman Point, Mumbai (Maharashtra).
2. Zonal Manager, Central Bank of India, Maurya Lok, Patna, Bihar.
3. Regional Manager, Central Bank of India, Motihari, Bihar.
4. The Branch Manager, Central Bank of India, Nautan Branch, Distt - Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Pancham Lal Jaiswan, Advocate
For the Respondent/s : Mr. Ajay Kumar Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-07-2017

Seeking exception to an order dated 5.5.2017 passed in
CWJC No. 7618 of 2016 this appeal has been filed under Clause 10 of
the Letters Patent.

The learned Writ Court found that the prayer made for
compassionate appointment in the writ petition cannot be acceded to
as it has already been rejected by order dated 2.1.2014 passed earlier
in petitioner-appellant's own case in CWJC No. 2025 of 2012.

Having heard learned counsel for the parties, we find that
petitioner-appellant's father was working as Daftari in Central Bank



of India and died in harness on 10.1.2003. When his application for compassionate appointment was not considered, he filed the writ petition being CWJC No. 2025/2012 and in the said writ petition he came out with a case that his case for compassionate appointment has not been considered.

The Bank filed counter affidavit and pointed out that there is no scheme for compassionate appointment in the Bank at present and it was also pointed out that the name of the petitioner is included in the list of daily wages employee in the Bank for recruitment of subordinate staff in the Bank and his application is pending consideration. Taking note of the rival contentions that were made on 2.1.2014 the 3rd writ petition was disposed of with the following directions:

“I find that there is no explanation for delay in filing the present writ application nearly eight years after cause of action arose. However, without commenting on that, in view of stand taken by the bank that petitioner’s case will be considered by the authorities in due course, pursuant to his application for appointment, this writ application is disposed of with an observation that the respondents should consider the case of the petitioner, as expeditiously as possible, and take a final decision within a period of six months from the date of receipt/communication of the order.”



Thereafter when nothing was done and the result of the recruitment to the subordinate post were not declared, the petitioner-appellant herein again filed the present writ petition being CWJC No. 7618 of 2016 which has been dismissed on the principle of res judicata.

Learned counsel for the petitioner-appellant invited our attention to a judgment of the Supreme Court in the case of **Canara Bank & anr. Vs. M. Mahesh Kumar: (2015) 7 SCC 412** and tried to substantiate the case of the petitioner-appellant for appointment on compassionate ground in accordance with the scheme in vogue and he emphasized that in this case the learned Writ Court has committed error in dismissing the writ petition on the ground of res judicata.

Learned counsel for the Bank pointed out that in the earlier writ petition filed by the petitioner, CWJC No. 2025 of 2012 two questions were considered by the Writ Court one with regard to the compassionate appointment which was rejected taking into account the fact that the writ petition seeking compassionate appointment after eight years of cause of action is not maintainable and the second direction with regard to consideration of claim for appointment in the recruitment process initiated for appointment of subordinate staff. Accordingly, learned counsel submits that now with



regard to compassionate appointment the order passed on 2.1.2014 having attained finality, the same cannot be reopened.

We find much force in the submissions made by learned counsel for the Bank. As far as the prayer of the petitioner-appellant for grant of compassionate appointment is concerned, the Writ Court has clearly ordered on 2.1.2014 that it does not find any explanation for the delay in filing the writ petition nearly eight years after the cause of action accrued in the year 2003, i.e. 10.2.2003 claiming compassionate appointment. This order passed by the Writ Court on 2.1.2014 was never challenged by the petitioner-appellant and thus attained finality and once it has attained finality, it operates as res judicata in the matter of seeking compassionate appointment, the second writ petition was not maintainable.

We need not go into the merit of the orders passed in the judgment referred to above, once we are convinced that on the ground of delay once the petition for compassionate appointment was dismissed on 2.1.2014, the matter cannot be reopened in the subsequent writ petition and the Writ Court has not committed error.

The case of the petitioner-appellant is that his claim for compassionate appointment has not been considered in the backdrop of the law relied upon before us and the ground available to the petitioner-appellant. When the earlier writ petition was heard and at



that very stage, he could not challenged the order dated 2.1.2014 on these grounds, this having not done, once the order dated 2.1.2014 passed in CWJC No. 2025/2012 attained finality, we see no reason to reopen the same.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
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