

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2491 of 2016

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Aditya Kumar Son of Late Satya Narayan Prasad, Resident of Village / Mohalla -
Takiya, Ward No. 3, Takiya Bazar Samiti, P.S. - Sasaram Modal, District - Rohtas.

.... Petitioner

Versus

1. The State of Bihar through the Director Horticulture, Bihar, Patna.
2. The Director, Horticulture Department, Govt. of Bihar, Patna.
3. The District Magistrate - cum - President of the District Compassionate Committee, District - Patna.
4. The Compassionate Committee, Patna, District - Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Abhya Kumar, Adv.

Mr. Ramchandra Singh, Adv.

For the Respondent/s : Mr. Nirbhay Prashant, AC to SC-17

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 07-03-2017

Heard Mr. Ramchandra Singh, learned counsel for the
petitioner and Mr. Nirbhay Prashant, AC to SC-17, for the State.

The petitioner is aggrieved by the order of the District
Compassionate Committee, Patna bearing Memo No. 23 dated
4.1.2016 in so far as it proceeds to reject the claim of the petitioner for
compassionate appointment on grounds that his application was
received belatedly and after expiry of five years from the death of his
father, thus violating the guidelines issued by the Department of
Personal and Administrative Reforms bearing Memo No. 2822 dated
27.4.1995 which has put a limitation of five years for filing such
application.

With the consent of the parties this writ petition has been



heard with a view to final disposal at the stage of admission itself.

The facts of the case necessary for disposal of the writ petition are as follows:

The father of the petitioner serving as a Mali with the Horticulture Department expired on 14.5.2009 and thereafter the widow i.e. the mother of the present petitioner applied for compassionate appointment on 16.10.2009 but her application was rejected by the Director, Horticulture who vide his letter dated 2.12.2011 informed the widowed mother of the petitioner that she stood disqualified for appointment on her age as well as on her educational qualification. An offer was, however, made to her to file a fresh application if either her son or daughter had attained the age of majority and had passed Matriculation Examination. It is not in dispute that at the relevant time the present petitioner was a minor and there was none other to apply as such. However, soon after the petitioner attained majority and passed his Matriculation Examination that he filed his application on 7.10.2013, a copy of which is present at Annexure 2. The filing of the application is not disputed rather is accepted by the respondents in paragraph 13 of the counter affidavit. The respondents, however, while accepting this fact have stated that another application was filed on 1.8.2014. The said request of the petitioner was acted upon and by the letter dated 19.9.2014 the



Director, Horticulture informed the petitioner to submit certain testimonials mentioned in the letter, a copy of which is present at Annexure 3. The petitioner did the needful vide his letter dated 27.10.2014 which stands enclosed to Annexure 3. Since the application was yet wanting on certain aspects that another letter was written by the Deputy Director, Horticulture dated 31.10.2014 requesting the petitioner to file certain documents and which was submitted by the petitioner on 21.11.2014, copies of which are placed at Annexures 4 series. It is after the application was complete in all respect that the case of the petitioner alongwith some other was forwarded by the Director, Horticulture to the District Magistrate, Patna, who also happens to be the Chairman of the District Compassionate Committee, vide letter dated 9.12.2014 present at Annexure 5. Certain further informations were asked by the District Magistrate as the Chairman of the Committee and which also was furnished by the Director, Horticulture vide letter dated 23.1.2015 present at Annexure 6. There being no impediment thereafter in allowing the claim raised by the petitioner, it has now been rejected by the District Compassionate Committee headed by the District Magistrate, Patna on grounds that the initial application of the petitioner for compassionate appointment was filed beyond the period of five years as stipulated in the guidelines dated 27.4.1995, a copy of



which is present at Annexure 'B' to the counter affidavit. The decision of the Compassionate Committee has been impugned at Annexure 7 and the case of the petitioner has been dealt at Item No.6. The petitioner feeling aggrieved is before this Court.

I have heard learned counsel for the parties and have perused the records.

While it is the contention of Mr. Singh, learned counsel appearing for the petitioner, that there has been absolutely no laches on the part of the petitioner in pursuing the cause rather the cause was initially persuaded by the mother of the petitioner and on being found disqualified for appointment that the petitioner filed his application on 7.10.2013 well within the period of five years, but such stand is being contested by the learned State Counsel in reference to paragraph 13 of the counter affidavit to submit that even though an application was filed on 7.10.2013 within the period of five years but a proper application was filed on 1.8.2014 which has been acted upon.

In my opinion, the cases of the present kind are instances of State generating unwarranted litigation. The State in paragraph 13 of the counter affidavit is not disputing the filing of the application by the petitioner on 7.10.2013 seeking compassionate appointment and which is much within the period of five years stipulated in the guidelines dated 27.4.1995, which at paragraph 6 merely requires an



applicant to file an application within five years of the death of the employee. The family of the deceased employee in the present case have not delayed in filing such application rather it is a matter of record and not in dispute that initially the mother of the petitioner filed application on 16.10.2009 and on being informed that she was not fit for appointment vide Annexure 1 that the son i.e. the petitioner on attaining the majority filed an application on 7.10.2013 i.e. within the period of five years. A mere completion of formality by the petitioner in form of submission of testimonials cannot prejudice his case nor disqualify him on the ground of limitation. All that the guidelines present at Annexure 'B' dated 27.4.1995 requires is that an applicant should raise his claim within the period of five years of death of the Government servant and in the present case the claim has been raised within the period stipulated as also accepted by the respondents in paragraph 13 of the counter affidavit. The time taken by the respondents in completion of formality for such appointment, is no ground for rejection of the claim of the petitioner, which otherwise has been found fit for appointment.

In the circumstances discussed, the order of the District Compassionate Committee headed by the District Magistrate is perverse in so far as it proceeds to reject the claim of the petitioner on a ground which is not supported and thus, the resolution of the District



Compassionate Committee dated 4.1.2016 in so far as it relates to the petitioner at Item No.6, impugned at Annexure 7, is quashed and set aside. The petitioner otherwise being found fit for appointment, the District Compassionate Committee is, accordingly, directed to take steps for compassionate appointment of the petitioner within a period of four weeks from the date of receipt/ production of a copy of this order.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	21.03.2017
Transmission Date	NA

