

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1173 of 2016

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Bhikha Devi W/o Late Vijay Pandit, Resident of Mohalla/Village- Sahebganj
(Sarobar Lane), Post Office- Sahebganj, P.S.- University, District- Bhagalpur

.... Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of General Administration, Bihar, Patna
3. The Accountant General, Bihar
4. The Commissioner, Bhagalpur Division, Bhagalpur
5. The District Manager, Bhagalpur

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Krishna Chandra
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 27-07-2017

Re:-Interlocutory Application No. 5883 of 2016

The interlocutory application has been filed for
condonation of delay in filing of the appeal.

On the ground mentioned in the interlocutory
application, the delay in filing of the appeal is condoned.

Accordingly, the interlocutory application stands
allowed and disposed of.

Re:-Letters Patent Appeal No. 1173 of 2016

Challenging the orders passed in C.W.J.C. No. 2412
of 2011 and Civil Review No. 10 of 2015, this appeal has been filed



under Clause-X of the Letter Patent.

The appellant claiming to be the widow of Late Vijay Pandit, an employee in the establishment of District Magistrate, Bhagalpur who died in harness, filed the writ petition in question claiming compassionate appointment and family pension. It is an admitted position that the writ petition was filed after a period of more than 23 years of death of the employee and by holding that after more than 23 years the claim cannot be entertained, the writ petition and the review application have been dismissed.

As far as claim for compassionate appointment is concerned, it is well settled principle of law that compassionate appointment is granted to a family who are facing financial hardship due to the death of breadwinner and normally the claim for compassionate appointment should be made reasonably after death of the breadwinner and in many cases, it has been held by the Hon'ble Supreme Court that claim for compassionate appointment filed after more than 10-15 years are not delivered. In view of the above, in this writ petition, after the death of the employee concerned on 21.08.1982 the claim made after more than 20 years was not tenable and in rejecting the petition so far as it pertains to grant of compassionate appointment is concerned, no error has been committed by the learned Writ Court. However, appellant has also claimed settlement of family



pension on account of death of the employee after receipt of the group insurance claim and once the right to receive family pension was recurring right accruing every month when the pension is denied, the claim for family pension cannot be rejected on the ground of delay. That being so, in outrightly rejecting the claim of family pension also, learned Writ Court has committed error, instead it should be referred to the State Government to consider the claim of the deceased employee's widow who claimed family pension and decide the claim in accordance with law. This having not been done, we allow the appeal in part and direct the competent authority of the Department to reconsider the question for grant of family pension, in accordance with law and take a decision within a period of three months.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01/08/2017
Transmission Date	NA

