

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 11704 of 2008**

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Balram Kumar, son of Samundar Ram, resident of village Kolhuabar, P.O. Etpakwa, P.S. Kawakole, District Nawadah

.... Petitioner- Appellant/s

Versus

1. The State of Bihar
2. The Collector, Nawadah
3. The Addl. Collector, Nawadah
4. The S.D.O. Sadar, Nawadah
5. The Anchal Adhikari, Kawakole, District Nawadah
6. Officer-in-Charge, P.S. Kawakole, District- Nawadah

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Kiran Sinha, Advocate
Mr. R.K.Ranjan, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 14-02-2017

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench on 10th of August, 2015 whereby the writ application filed by the appellant to seek compassionate appointment after death of his father, remained unsuccessful.

Samundar Ram, the father of the appellant, died on 09.01.1998 while working as Chowkidar at Kawakole Police Station. The appellant applied for compassionate appointment on



25.03.1998. Since the appellant was not appointed, he invoked the writ jurisdiction of this Court in the year 2008. It is the said writ application which has been dismissed by the learned Single Bench on the ground that the appellant cannot seek compassionate appointment after long lapse of death of his father.

Learned counsel refers to the order passed by the Hon'ble Supreme Court reported as Sushil Kumar Yadunath Jha Vs. Union of India & another, AIR 1986 SC 1636, to contend that the cause of action has arisen to him when the Government declined the representation for making appointment, therefore, it cannot be said that the claim of the appellant for appointment on compassionate ground is delayed. He also refers to an order passed by the Hon'ble Supreme Court reported as C. Shakunthala & Ors. Vs. H.P.Udayakumar & Anr., (2012) 2 SCC 294, to contend that the learned Single Bench while hearing the writ application filed by the appellant on earlier occasion had directed production of the record for consideration, therefore, in view of the said order, the co-ordinate Bench could not have taken a view that the writ application suffers from delay and laches.

We have heard learned counsel for the appellant and find no merit in the present appeal. The father of the appellant died on 09.01.1998. The appellant invoked the writ jurisdiction of this



Court in the year 2008. The purpose of grant of compassionate appointment is to mitigate the extreme financial hardships to the family on account of untimely death of the bread winner. Though the application was submitted in March, 1998, but the fact remains that he was not appointed and the appellant has not taken any step such as to invoke the writ jurisdiction of this Court soon after the death so as to seek compassionate appointment. He has invoked the jurisdiction of this Court after 10 years.

In Umesh Kumar Nagpal Vs. State of Haryana & Ors., (1994) 4 SCC 138, it was held that compassionate appointment is not a source of appointment but is to provide solace to the family on account of untimely death of the bread winner. Long delay in not asserting ones right is justified cause in not entertaining the application for compassionate appointment.

Sushil Kumar Yadunath Jha's case (supra) was pertaining to continuity of service, therefore, such relief can be claimed only after the same was declined, but in the present case, though non-appointment of the appellant for sufficient period after death gave cause of action to the appellant to invoke the jurisdiction of this Court, but having failed to do so diligently and apparently sleeping over the rights, will disentitle the appellant to seek appointment on compassionate ground.



In C. Shakunthala's case (supra) the Court has passed an order keeping in view an order of framing of charge in contempt case at early stage but at later stage the contempt petition had been dismissed. But in the present case, an interim order was passed asking for information from the respondents. Such interim order is not a decision on merits but is a step towards the final decision. The final decision was that the writ application suffers from delay and laches. In view thereof, the interim order passed by this Court at early stage of the proceedings will not be binding on the Court to decide the writ application filed by the appellant on merits.

Consequently, we do not find any merit in the present Letters Patent Appeal. The same is dismissed.

(Hemant Gupta, ACJ)

(Sudhir Singh, J)

S.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2017
Transmission Date	

