

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1628 of 2016
IN
Civil Writ Jurisdiction Case No. 12534 of 2014**

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Rajeev Kumar Manjhi, Son of Late Ram Autar Manjhi Resident of village - Jagatpura, P.O. Sawaja, P.S. Barharia, Distt. - Siwan

.... Appellant/s

Versus

1. The State of Bihar
2. The District General of Police, Bihar, Patna
3. The Principal Secretary, Department of Home (Police), Government of Bihar, Patna
4. The Superintendent of Police, Siwan
5. The Collector - Cum - Chairman, District Compassionate Committee, Siwan

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Kulanand Jha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10 -01-2018

Seeking exception to an order passed on 06.05.2016 in CWJC No. 12534 of 2014 this appeal has been filed under Clause 10 of the Letters Patent.

The issue involved in the matter pertains to grant of compassionate appointment. The appellant Rajeev Kumar Manjhi is son of Late Ram Autar Manjhi. Ram Autar Manjhi was working as Subedar in the District Police Force, Siwan. He died in harness on 07.05.2001. The petitioner claiming to be minor at that point of time filed an application seeking compassionate appointment on



04.07.2005 after he had attained majority. It seems that certain correspondences took place, nothing was done, affidavit of the wife of the deceased in the matter was called for and finally the matter came up to this Court in CWJC No. 15600 of 2009 at the instance of the petitioner and on 18.8.2011 the said writ petition was disposed of directing the competent authority to consider the matter before the Compassionate Committee. The matter was placed before the appropriate Committee.

It is the case of the petitioner that even though the appropriate Committee has made recommendation based on the facts that there was no material to show that the property of the family has been partitioned and it was also observed that the elder brother of the petitioner who is already employed was not maintaining the family claim for appointment was rejected on the ground that the elder brother is already in government service. It was argued that the elder brother was not maintaining the family. The family was unable to maintain itself and even without going into the veracity of the matter and considering the financial position of the family, the rejection was improper. It is stated that the learned writ court dismissed the writ petition only on account of the fact that after so many years after the death of the employee concerned compassionate appointment cannot be granted.



However on going through the various aspects of the matter we find that the appellant's father died in the year 2001. The family survived after that for more than five years. The application for compassionate appointment was filed after more than four and a half years and there was also available on record the fact that one of the sons of the deceased employee was in government employment. There was no partition of the family property. The property of the family was enough for maintenance and the widowed mother was not being maintained by the elder brother she has a right to claim maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and finding that it is not a fit case where compassionate appointment can be granted, the application has been rejected.

Even though the learned counsel for the petitioner vehemently argued that in this case, once in the year 2011 the matter was remanded back to appropriate Committee and the Committee was of the opinion that the elder brother was not maintaining the family and living separately, it was fit case where compassionate appointment should have been granted. It is said that in rejecting the claim of the petitioner on the ground as are indicated hereinabove both the departmental authorities and the learned Writ Court have committed an error.



Having considered the rival contentions and having bestowed our anxious consideration on various issues of the matter, we hold that compassionate appointment is not a right, it is a process of appointment contrary to the mandate of Article 14 of the Constitution of India and it is required to be granted on exceptional circumstances and in accordance with the scheme for compassionate appointment. Apart from the fact that compassionate appointment cannot be granted after a long period of time which has lapsed after death of the legal heir of the family. Compassionate appointment is not a form of reservation to be claimed as a matter of right. The settled principle that can be safely derived on going through the various judgments of the Hon'ble Supreme Court with regard to the scope of compassionate appointment, are as follows:-

(1) General Manager, SBI vs. Anju Jain
[(2008) 8 SCC 475],

wherein it has been laid down that delay and laches in claim of compassionate appointment cannot be permitted.

(2) State of Jammu & Kashmir & others vs. Sajad Ahmad Mir
[(2006) 5 SCC 766],

Compassionate appointment cannot be granted after 10 to 14 years of death of the employee that also after the son attains majority.

(3) Jagdish Prasad vs. State of Bihar & Anr.



[(1996) 1 SCC 301]

**(4) Haryana State Electricity Board & Anr.
Vs. Hakim Singh
[(1997) 8 SCC 85]**

If we analyze the claim of the appellant in the backdrop of the legal principles and the reasons which are considered by the department and the learned Writ Court for rejecting the claim of the appellant we are of the considered view that no error has been committed by the learned Writ Court warranting reconsideration.

The appeal stands dismissed.

(Rajendra Menon, CJ)

Anil Kumar Upadhyay, J. I agree.

(Anil Kumar Upadhyay, J)

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