

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19890 of 2015

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Baban Rai, Son of Late Ambika Rai, residents of Village- Faizullahpur, Police
Station- Baikunthpur, District- Gopalganj Petitioner

Versus

1. The State of Bihar through the District Magistrate, Gopalganj.
 2. The District Magistrate, Gopalganj.
 3. The Sub-Divisional Officer, Gopalganj.
 4. The Circle Officer, Baikunthpur, Gopalganj Respondents
- =====

Appearance :

For the Petitioner : Mr. Ajay Kumar, Advocate
For the Respondents : Mr. Sarvesh Kumar Singh, AAG 13
Mr. Puneet Siddharha, AC to AAG 13.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 05-03-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner prays for quashing order contained in Memo no. 280 dated 20.10.2014 (Annexure 8), whereby his claim for appointment on compassionate ground has been rejected by the District Magistrate, Gopalganj (respondent no.2).

3. Petitioner's father died in harness on 6.2.2010 while working as Chowkidar. Petitioner applied for compassionate appointment on 17.1.2011, which is Annexure 2 to the writ petition. The District Compassionate Appointment Committee (herein after referred to as 'the Committee') in its meeting dated 14.10.2011 considered petitioner's case and called for a report from the District Education Officer, Gopalganj regarding the educational qualification of the petitioner as also a certificate from the Circle



officer, Baikunthpur, Gopalganj (respondent no.4) regarding the petitioner's cycling skill.

4. Petitioner's case was considered for the second time as well as the third time in the meetings of the Committee on 14.7.2012 (Annexure 5) and 28.6.2013 (Annexure 6) respectively, in which the same requirements were reiterated by the authorities. It appears that the requisite report regarding petitioner's educational qualification and the certificates regarding his cycling skill, which were called for from other authorities of the State Government as noticed above, had not been submitted leading to delay in consideration of petitioner's case for compassionate appointment. When the petitioner's application for compassionate appointment was considered on the fourth occasion on 18.10.2014, the Committee rejected his claim for compassionate appointment by assigning the reason that he is over age as per the standard prescribed by the Government for compassionate appointment, i.e., above 37 years.

5. It is clear from the above noted factual events that the respondents themselves had been delaying petitioner's appointment as the reports regarding his educational qualification and the certificate regarding cycling skill were not made available to the Committee by the District Education Officer and the Circle Officer



respectively. In view of the aforesaid circumstances, the respondent authorities cannot be permitted to reject petitioner's case by assigning reason that he has become over age as the said delay has been caused by the respondents itself in considering petitioner's case and as such he has become over age by two months as on the date of last consideration, i.e., on 14.10.2014.

6. Learned counsel for the petitioner relies upon judgment of the Hon'ble Supreme Court in case of **State of Bihar and others Vs. Ranchi Thok Khadya Vyapari Sangh and others**, reported in **1991(1) PLJR SC 1** as well as a judgment of this Court in case of **Chandra Bhushan Singh Vs. The State of Bihar and ors**, reported in **1997(1) PLJR 626**. While relying upon these judgments, it is submitted that the purpose of providing appointment is to mitigate the hardship due to death of the bread earner in the family and such appointment should, therefore, be provided immediately to redeem the family in distress. The Court has further held that it is improper to keep such cases pending for years due to the inaction of the respondents themselves.

7. This Court finds the submission of the petitioner's counsel to be acceptable inasmuch as the position of law is clear, as noted above, that for the delay caused by the respondent authorities petitioner cannot be made to suffer. However, records do not reveal



whether the reports regarding petitioner’s education qualification and his cycling skill are still awaited by the Committee or the same has been made available to the Committee. In view of the aforesaid position, this Court would leave it to the respondent authorities to examine the matter, and if the requisitioned documents have been received by the Committee and the petitioner is found otherwise fit, his claim be considered expeditiously without having any regard to the delay occasioned by the respondent authorities. Claim of the petitioner shall be considered within a period of eight weeks from the date of receipt/production of a copy of this order.

8. The writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	07.03.2018
Transmission Date	NA

