

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7383 of 2016

=====

Rajesh Ranjan, son of Late Sheo Pujan Prasad, resident of village- Firojpur, P.O.- Pachrukhi, P.s.- Bheldi, Town & District- Chapra. Presently residing at Mohalla- Sarai Durga Mandir (City), Near Aircel Tower, P.s.- City, District- Purnea

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Govt. of Bihar, New Secretariat, Patna
2. The Director, Directorate of Employment and Training, Govt. of Bihar, New Secretariat, Patna
3. The Joint Director, Training, Bihar, Patna
4. The District Magistrate cum Chairman, District Compassionate Committee, Muzaffarpur
5. The Principal, Industrial Training Institute, Muzaffarpur

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Jai Kishor Poddar, Advocate

For the Respondent/s : None

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-07-2018

Heard Mr. Jai Kishor Poddar, learned Counsel appearing for the petitioner.

There is no representation on behalf of the State nor any counter affidavit is filed though this matter has remained pending for consideration for more than two years.

In the circumstances noted and without giving further indulgence to the State, this Court proceeds to consider the matter on merits.

The petitioner is aggrieved by the order bearing memo no.



454 dated 05.02.2016 of the Joint Director, Training, Bihar, Patna whereby he has refused to condone the age of the petitioner for the purpose of appointment on compassionate grounds despite recommendation of the District Compassionate Committee as present in the proceedings dated 31.12.2014 enclosed at Annexure-6 to the writ petition. A copy of the order passed by the Joint Director dated 05.02.2016 is impugned at Annexure-1 to the writ petition.

I have heard Mr. Raj Kishor Poddar, learned Counsel for the petitioner and perused the records which confirms that the mother of the petitioner was a Class-IV employee posted at I.T.I., Muzaffarpur under the respondent department and who died in harness on 20.01.2014. The date of death is confirmed from the certificate enclosed at Annexure-2. The petitioner filed an application for compassionate appointment in prescribed format, a copy of which is at Annexure-5. The application is dated 20.09.2014 and thus is within the prescribed period. The application of the petitioner was considered by the District Compassionate Committee, Muzaffarpur and was upheld except that since the petitioner had crossed the upper age limit for entry in government service that the department concerned was requested for condonation of the maximum age. The recommendation of the petitioner by the District Compassionate Committee is present at Item No. 57 of the proceedings enclosed at Annexure-6. The



request of the District Compassionate Committee has been rejected by the impugned order dated 05.02.2016, whereby the Joint Director, Training has refused to condone the age limit of the petitioner and feeling aggrieved he is before this Court.

Mr. Poddar has invited the attention of this Court to the circular of the Department of Personnel and Administrative Reforms dated 25.07.1998, a copy of which is at Annexure-8 to the writ petition, to submit that it is taking note of the stipulations present at Rule-54 of the Bihar Service Code that a decision was taken to condone the age limit of such of the applicants for compassionate appointment who had crossed the same for entry in the government service. He invites the attention of this Court to an order of the respondent department issued through the Director bearing memo no. 1060 dated 03.06.2013 to submit that in an identical situation where an applicant Renu Devi aged more than 44 years had sought condonation of upper age limit for compassionate appointment that a decision was taken in favour of the applicant in reference to Rule-54 of Bihar Service Code as manifest from the order enclosed at Annexure-10 to the supplementary affidavit.

The submissions go uncontested and are supported by the documents on record.

Having heard learned Counsel for the petitioner and taking



note of the recommendation made by the District Compassionate Committee at Annexure-6 requesting the department to condone the upper age limit of the petitioner as also taking note of own circular of the Department of Personnel and Administrative Reforms at Annexure-8 making stipulations for condonation of upper age limit, following which the respondent department has been pleased to condone the age limit in respect of an employee Renu Devi as confirmed at Annexure-10, in my opinion the rejection of condonation request made by the Joint Director Training is not only illegal and contrary to the circular dated 25.07.1998 of the Department of Personnel and Administrative Reforms but is also discriminatory taking note that in identical situation the respondent department has condoned the age of an applicant who was aged 44 years at the time of entry in service on compassionate basis.

For the reasons so discussed, the order bearing memo no. 454 dated 05.02.2016 of the Joint Director, Training, Bihar, Patna impugned at Annexure-10 can not upheld and is accordingly quashed and set aside.

Since the respondents on following the circular dated 25.07.1998 of the Department of Personnel and Administrative Reforms, have condoned the age limit of one of its employee as manifest from Annexure-10, the petitioner deserves similar treatment.



The respondent more particularly respondent no. 2, the Director, Directorate of Employment and Training, Government of Bihar is directed to act accordingly and pass appropriate order within six weeks of the receipt/production of a copy of this order.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

Archana/Surendra

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.07.2018
Transmission Date	NA

