

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18552 of 2015

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Ramashish Kumar Son of late Yadunandan Yadav resident of Village-
Chiraiyatand, PO- Rampur, P.s Civil Line, District Gaya Petitioners

Versus

1. The State of Bihar through the District Magistrate, Gaya, District Gaya
2. The Superintendent ,Central Jail, Nawada, District Gaya.
3. The Superintendent ,Central Jail, Gaya, District Gaya.
4. The Circle Officer, Gaya Nagar, District Gaya.

.... Respondents

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Appearance :

For the Petitioner : Mr. Sumeet Kumar Singh, Advocate

For the Respondents : Mr. Mahendra Pd.Verma, AC to SC 20

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-04-2018

Heard learned counsel for the petitioner and the State.

2. Petitioner filed the instant writ petition seeking enforcement of his claim for compassionate appointment made in the year 2002 by Annexure 3 which is dated 12.12.2002. Petitioner's father died on 26.7.2001 while he was posted as '*Kaksh Pal*' in the service of the Central Jail, Gaya. Annexure 3 happens to be a letter contained in Memo no. 3030 issued by the Jail Superintendent, Central Jail, Gaya to the District Magistrate, Gaya by which application of petitioner's mother/wife of the deceased employee has been recommended for compassionate appointment in her favour. Now, the petitioner on basis of the undated application which is Annexure 5 submits that he being son of the deceased employee, should be considered for grant of compassionate appointment.

3. Application for compassionate appointment, alleged to have been filed by the petitioner 16 years after the death of his father died in harness, cannot be considered merely because now the applicant has attained majority. In this connection, this Court would refer to a decision of the Hon'ble Apex Court in the case of **Umesh**



Kumar Nagpal Vs. State of Haryana, 1994 (4) SCC 138. The guidelines which found acceptance in that case were recorded and relied upon in case of Canara **Bank and another Vs. M. Mahesh Kumar and others**, reported in **2015(3) PLJR 197**. The guidelines which have been laid down for considering the claim for appointment on compassionate ground have been enumerated therein which are being reproduced herein below:-

“20. Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:-

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee's family at the time of his death or incapacity, as the case may be.

*(iv) Compassionate employment is permissible only to one of the dependants of the deceased/incapacitated employee viz. parents, spouse, son or daughter and not to all relatives, and such appointments should be only to the lowest category that is Class III and IV posts.”
(Underlining added)”*



4. One of the ingredients for compassionate appointment, which is evident from the guidelines, is that an application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period. In the instant case, the petitioner has waited for about 14 years to attain majority before making representation claiming for compassionate appointment. The same by no stretch of imagination can be said to be without undue delay.

5. In view of the aforesaid circumstances, claim of the petitioner being not enforceable, the writ petition is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

