

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6958 of 2016**

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Raj Kumar Choudhary Son of late Jawahar Choudhary Resident of Village-  
Nuruddinganj, P.O. Madhav Mills, P.S. Malsalami, District- Patna.

.... .... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Revenue, Government of Bihar, Patna.
3. The Director, Consolidation, Government of Bihar, Patna.
4. The Collector, Vaishali at Hajipur.
5. The Deputy Director, Consolidation, Vaishali, Hajipur.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Raghunath Singh, Adv.  
Mr. Jai Shankar Pathak, Adv.

For the Respondent/s : Mr. Madhukar Mishra, AC to SC 16

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 06-08-2018**

Heard Mr. Raghunath Singh, learned counsel for the  
petitioner and Mr. Madhukar Mishra, learned AC to SC-16, for the  
State.

With the consent of the parties the writ petition has been  
heard with a view to final disposal at the stage of admission itself.

The writ petition was filed for a direction in the nature of  
mandamus to appoint the petitioner on a Class IV post on  
compassionate ground.

The father of the petitioner died in harness on 2.9.1996  
while serving as a Peon in the office of the Consolidation Officer,  
Lalganj, in the district of Vaishali. An application was filed by the  
original petitioner, who was the elder son of the deceased Government



employee, seeking appointment on compassionate ground, a copy of which is at Annexure 2 to the writ petition. The application was forwarded by the Deputy Director, Consolidation and was recommended for appointment by the District Compassionate Committee chaired by the District Magistrate, Vaishali in the meeting held on 17.12.2005 vide Annexure 4 to the writ petition. Despite recommendation for appointment made on 17.12.2005, the matter got stuck and did not move forcing the applicant son (since deceased) to move this Court through the present writ petition.

Unfortunately the original petitioner Ajit Kumar Choudhary, the elder son of the deceased Government servant, also expired during the pendency of the writ petition on 25.8.2016 necessitating a substitution petition bearing I.A.No. 3898/2017 which has been allowed by this Court vide order passed on 25.6.2018. It is now the younger son of the deceased Government servant, namely, Raj Kumar Choudhary, who is pursuing the cause.

It is manifest from the discussion made that it is entirely due to laches of the respondents in not taking effective steps for providing compassionate appointment to the family of the deceased Government employee which has resulted in a rather unfortunate situation discussed above. The widow of the deceased Government servant on death of her elder son, recommended her younger son Raj Kumar Choudhary, the present petitioner, for appointment through her



representation enclosed at Annexure 'P/2' to the interlocutory application which is addressed to the Director, Consolidation. The application was received on 21.12.2016 and until this matter was heard on 25.6.2018 i.e. two years thereafter, the State did not bother to file counter affidavit.

It is following the direction of this Court that a counter affidavit is filed and Mr. Mishra while accepting the sequence of events has now drawn the attention of this Court to a bogey raised by the respondents to question the initial appointment of the deceased Government employee itself. It is also urged that since in the meanwhile the limitation period as prescribed under the circulars regulating compassionate appointment has expired, guidelines have been sought from the General Administration Department on the issue.

I have heard learned counsel for the parties and have perused the records and if there could be one example of laid back attitude in the Government, the case in hand is a classic example. The death of the employee took place on 2.9.1996 due to Cancer. The original writ petitioner Ajit Kumar Choudhary filed his application for compassionate appointment on 28.11.2000 well within the period stipulated under the circular but was acted upon, five years thereafter on 17.12.2005 when the District Compassionate Committee recommended his claim for compassionate appointment vide



Annexure 4. The Government yet slept over the matter for next eleven years during which period the original writ petitioner died having raised his grievance before this Court. Since the family continues to remain in distress exclusively due to laches and laid back attitude of the Government, which has forced the widow to suggest the name of her younger son Raj Kumar Choudhary to pursue the cause through the present writ petition on being substituted in place of the original petitioner. Even this long period of more than 22 years has not satisfied the respondent department to have a positive attitude, rather yet they seek guidelines from the General Administration Department. The situation depicts a rather hopeless situation.

In my opinion, neither there is any delay by the family to raise their claim for compassionate appointment nor a bogey of alleged illegality in the initial appointment of the deceased Government employee, can allow the respondents to sleep over the claim. It is too late in the day for the respondents to reopen the issue of appointment of the deceased Government employee which chapter stands closed on his death.

That the widow has already represented before the Director, Consolidation for consideration of the case of the younger son Raj Kumar Choudhary for compassionate appointment, let the same be forwarded forthwith by the Director, Consolidation or the authority concerned before the District Compassionate Committee,



Vaishali within a period of four weeks from the date of receipt/ production of a copy of this order and let the District Compassionate Committee, Vaishali accordingly make its recommendation within next four weeks bearing in mind that the claim raised by the family for compassionate appointment has already been upheld by the Committee on 17.12.2005 and the situation has arisen merely because early recommendee has deceased even before the recommendation could reach its conclusion. It is further directed that no sooner the District Compassionate Committee, Vaishali makes its recommendation, let the Director, Consolidation or the authority concerned take the recommendation to its conclusion within four weeks of the receipt of the recommendation.

The writ petition is allowed with the directions above.

**(Jyoti Saran, J)**

Archana/Surendra

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