

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6280 of 2016

=====

Mostt. Gyanti Devi W/o Late Gorakhnath Vishwakarma, Resident of village-
Dahiyawan Mubarak Lane, P.S. Town Chapra, District- Saran at Chapra

.... Petitioner

Versus

1. The State of Bihar through its Principal Secretary Department of Home, Govt. of Bihar, Patna
2. The Director General of Police, Govt. of Bihar, Patna
3. The Inspector General of Police (KARMIK), Govt. of Bihar, Patna
4. The Superintendent of Police, Madhubani, District- Madhubani
5. The District Magistrate, Madhubani, District- Madhubani

.... Respondents

=====

Appearance :

For the Petitioner/s : Mr. Baidyanath Thakur, Adv.
Mr. Anil Kumar Tiwary, Adv.

For the Respondent/s : Mr. Sriram Krishna, AC to SC-11

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-05-2018

Heard Mr. Baidyanath Thakur, learned counsel for the petitioner and Mr. Sriram Krishna, learned AC to SC-11, for the State.

It is an unfortunate case where not only the husband but also the second son of the petitioner deceased in harness. It is since the application filed by the petitioner on 30.11.2008 on the death of her son was not acted upon that she has come before this Court.

The pleadings on record transpire that the husband of the petitioner died in harness while serving the respondents on the post of Driver Havaldar on 2.7.2004. On his death, the widow petitioner filed an application in favour of her elder son for compassionate appointment but he could not succeed failing on height and thus she put the candidature of her second son and who was provided with the



compassionate appointment. Unfortunately the younger son of the petitioner Rajesh Kumar Vishwakarma appointed as Bal Aarakshi also died due to poisoning leading to institution of a police case arising from Pandaul P.S. Case No. 256/2008. It is faced with such situation that the application in question was filed by the petitioner on 30.11.2008 for appointment of her elder son Raju Kumar Vishwakarma for survival and for taking her out of penury and which has remained pending, a copy of which is enclosed at Annexure 10.

Having heard learned counsel for the parties and considering the nature of the relief claimed, this Court is persuaded to give indulgence to the prayer made because laches prima facie is that of the respondents, in not disposing of the grievance of the petitioner but what restrains this Court to issue appropriate direction for disposal of the application of the petitioner, is the statement made in paragraph 6 of the counter affidavit in which it is stated that the elder son of the petitioner fails in height measuring 151.4 cms. as against the prescribed height of 165 cms. It is, thus, the stand of the respondents that there is no provision for relaxation of eligibility criteria and since the elder son of the petitioner does not fulfil the height criteria, her application cannot be acted upon.

A compassionate appointment though is an exception to the regular mode of appointment, inasmuch as the applicant is not



required to go through the rigors of a selection process but yet he has to succeed on the eligibility criteria which unfortunately is not the case in hand and that is the reason that the candidature of the elder son was not entertained on the death of the husband of the petitioner. It is well settled that unless the applicant would satisfy the eligibility criteria, be it on educational requirement or physical qualification, his claim for such appointment cannot be entertained.

As I have observed the case in hand is unfortunate where the petitioner has lost not only her husband but also her second son and since the elder son fails on height criteria, no appointment can be provided since the basic eligibility criteria on educational or physical qualification cannot be relaxed even if the circulars on record gives a relaxation on age aspect.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	15.05.2018
Transmission Date	NA

