

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10010 of 2015

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Ranjit Kumar Yadav S/O Late Baban Yadav Resident of Village- P.O. + P.S.-
Raghunathpur, District- Siwan.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Health, Govt. of Bihar, Patna
3. The Director-in-Chief, Health Services, Govt. of Bihar, Patna
4. The District Magistrate-cum-Chairman District Compassionate Committee,
District Establishment Section, District- Siwan
5. The Civil Surgeon-Cum-Chief Medical Officer, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Anil Kumar Verma, Advocate
For the S t a t e : Mr Harish Kumar, GP VIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-01-2018

Heard counsel for the petitioner and the respondent-
State.

2 Brief facts, which are undisputed and which gives rise to the instant writ petition, are that the petitioner's father Baban Yadav, who was in service on Class IV post in the Health Department, died while in harness on 09.07.2001. The wife (mother of the petitioner) had made her application for appointment on compassionate ground within the prescribed time asserting that she



was entitled to the same on grounds of destitute. The same was not considered where after she filed a writ petition before this Court bearing *CWJC No 3054 of 2004*. The same was disposed of by order dated 04.08.2004 wherein the matter was referred to the Compassionate Appointment Committee to pass appropriate orders considering her case for compassionate appointment.

3 Claim of the wife of Baban Yadav was rejected by order dated 12.03.2005. The same is evident from the order dated 10.03.2014 passed on the second writ petition filed by the wife of the deceased Baban Yadav bearing *CWJC No 18429 of 2011*. During pendency of the second writ petition filed by the wife of deceased Baban Yadav, the wife also passed away. In the said proceedings, the instant petitioner, who happens to be the son and legal heir of Baban Yadav, was substituted. The rejection of wife of Baban Yadav's claim for compassionate appointment was quashed by this Court and liberty was given to the family members of the deceased employee for making application for appointment on compassionate ground in accordance with law and a direction was issued that the Compassionate Appointment Committee will examine the case in accordance with law within a time frame prescribed in the order dated 10.03.2014 passed in *CWJC No 18429 of 2011*.

4 The matter of grant of compassionate appointment was, thus, kept pending by the respondent-authorities from the year,



2001 till 2014. In the meantime, the wife of the deceased employee also passed away and the son, i e, the instant petitioner had been substituted. His application was, accordingly, made in terms of the said order dated 10.03.2014 passed in *CWJC No 18429 of 2011*.

5 The District Compassionate Appointment Committee, in its meeting dated 27.02.2015, declined to consider the petitioner's case for appointment on compassionate ground by assigning the reason that on the date of death of the employee, the petitioner, who happens to be the son of the employee, was still a minor. Reliance has been placed on Letter No 4735 dated 19.05.1992 issued by the Department of Personnel & Administrative Reforms which has been referred to in the proceedings of the Compassionate Appointment Committee to reject the claim of the petitioner.

6 Counsel for the petitioner submits that such rejection is unsustainable inasmuch as the said letter dated 19.05.1992, which is a clarification, is in relation to the claim of applicants who have applied only on attaining majority and much after the death of the deceased employee.

7 This Court has examined the letter dated 19.06.1992 which has been relied on by the District Compassionate Appointment Committee. The same is a clarification issued by the Government in the Department of Personnel and Administrative Reforms. A bare perusal of the same shows that the same is referring only to the



belated claims for compassionate appointment by the legal heirs/dependents of deceased employee much after the death of the employee and on attaining majority.

8 Counsel for the petitioner rightly submits that the instant case would not be covered under the said letter/clarification as in this case, in fact, application had been made by mother of the petitioner within time. The respondent-authorities are themselves responsible for delay of about 13 years in considering the claim of compassionate appointment and for the said delay and inaction on the part of the respondents, the petitioner and his family, who are in destitute, cannot be made to suffer. Such delay and inaction on the part of the respondent-authorities adds to the suffering and hardship of the family of the deceased and defeats the very purpose of compassionate appointment.

9 Counsel for the petitioner submits that the aforesaid lethargic attitude on the part of the respondent-authorities has caused the delay and merely because they have delayed consideration of the claim and the family has managed to survive, an inference cannot be drawn that the family is no longer in need of appointment and on such inference, his claim cannot be rejected. He also relied on a judgment of this Court in the case of *Rajesh Kr –Versus- State & Others, 1999 (1) PLJR 491* to submit that as on the date when the claim of the petitioner was considered by the Compassionate Appointment



Committee, he had, admittedly, attained majority and, as such, he was entitled to consideration and his case could not be ignored by the authorities. In respect of his aforesaid submissions, he also placed reliance in the case of *Syed Khadim Hussain –Versus- State of Bihar & Others*, (2006) 9 Supreme Court Cases 195.

10 Counsel for the State also relies upon some judgment which are reported in the cases of *Union of India & Others –Versus- Amar Nath Ray & Another*, 2006 (1) PLJR 585, *Baijnath Das –Versus- State of Bihar & Others*, 2002 (1) PLJR 657, *Md Shaid Hussain –Versus- State of Bihar & Others*, 2002 (4) PLJR 867. He submits on the strength of the said letter dated 19.05.1992 and the judgments which he has cited that the claim of compassionate appointment of the dependent and legal heir cannot await his attaining majority. The said proposition is well founded but does not apply in the instant case. It is not the case where the legal heir of the deceased employee has waited for attaining majority before making application.

11 As noticed above, in the instant case, it is the respondent-authorities, who are responsible for the long delay. The unfortunate demise of the wife of deceased employee is an intervening circumstance which has compelled the petitioner to make his application for compassionate appointment, which is also in terms of the liberty granted under Order dated 10.03.2014 passed in CWJC No 18429 of 2011.



12 In view of the aforesaid facts, the letter dated 19.05.1992 is not applicable to the case of the petitioner. In view of the aforesaid consideration, the judgments relied upon by the counsel for the State are of no avail and cannot be relied upon to reject the petitioner's claim.

13 In the facts of the instant case and having considered the judgment cited by the petitioner, this Court would direct the respondent-authorities to consider the claim of the petitioners in accordance with law if he fulfils all other parameters without having regard to the letter dated 19.05.1992 which, as noticed above, does not apply in the facts and circumstances of the instant case. Such consideration should be made by the authorities within a period of three months from the date of receipt/production of a copy of this order. In view of such direction, the order rejecting the petitioner's claim by the District Compassionate Appointment Committee in its meeting dated 27.02.2015 is hereby quashed.

14 The writ petition stands allowed to the extent indicated above.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.02.2018
Transmission Date	NA

