

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10404 of 2018

=====

Md. Irshad Alam Son of Late Md. Hasib Alam Resident of Village - Mirjapur,
Bardah, Post Office - Dariyapur, Police Station - Muffasil, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Water Resource Department, Government of Bihar,
Patna having his office - Samagra Yojana Anveshan and Project Preparation
Anchal, Patna.
3. The Divisional Commissioner, Patna.
4. Superintending Engineer, Water Resource Department, Government of Bihar.
5. The Executive Engineer, Samagra Yojana Anveshan and Project Preparation
Anchal, Patna.
6. The District Magistrate cum Chairman of Compassionate Appointment
Committee.
7. The Civil Surgeon, Patna.
8. The Additional Collector cum Special Programme, Patna.
9. The Additional Collector, Patna.
10. The Executive Engineer, Patna Division, Patna.
11. The Deputy Collector, Establishment, Patna.
12. The District Welfare Officer, Patna.
13. The District Education Officer, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Shekhar Kumar Singh, Adv.
For the Respondent/s : Mr. Akash Chaturvedi, AC to SC11

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 14-09-2018

Heard learned counsel for the petitioner and counsel for
the State.

In this case, the petitioner is praying that he should be
given compassionate appointment as his father has died, in
harness, while discharging the duty in the State Government.

The short fact of this case is that his father had two
wives and the present petitioner is the offspring of the second wife.



The dispute arose with regard to succession which led to lodging of the case before the Succession Court by way of Succession Case No. 4 of 2008 and finally both the sides have settled the dispute outside court. Accordingly, the Court has directed for issuance of certificate.

Learned counsel for the petitioner submits that he could not file the application for compassionate appointment on account of pendency of the succession case as well as he had no knowledge about the limitation period of five years and, as such, after disposal of the succession case, proper application was filed by the petitioner for compassionate appointment. It has further been submitted that at the time of death of his father, he was minor and, as such, after reaching the age of majority, he has filed the application. He has further submitted that the decision of the respondents to refuse the appointment of the petitioner on the ground that he has filed the application after lapse of nine years of his father's death is completely misplaced, misconceived and require interference.

Learned counsel for the petitioner further submits that the mother of the petitioner had gone to the office of Engineer where she was informed that her son can file an application for compassionate appointment after attaining the majority but no



where has been mentioned by the petitioner as to when she had approached to the office of the Superintending Engineer and from the records itself, it appears that the petitioner was about to attain the majority as on the date of death of his father, he was more than 17 years may be less than 18 years by few days or few months.

Learned counsel for the State has submitted that the at the time of death of his father, the petitioner was about 18 years, may be short of few months or few days and quickly he has attained the majority but, he has waited for about ten years to file application for compassionate appointment. He has further submitted that pendency of the application for compassionate appointment has nothing to do with respect to succession and he could have filed the application for compassionate appointment in time and there is nothing wrong in the order of the authority to refuse the benefit of grant of compassionate appointment.

Having considered the rival contentions of the parties, his father has died in the year 2007, his date of birth is 1989, the plea that has been taken by the petitioner that he was minor is not correct as it appears that he may be short of two months or few days of attaining the majority but, he has taken nine years to file an application for compassionate appointment whereas the maximum period at present for filing an application for compassionate



appointment is five years, in turn, the decision on compassionate appointment is to be taken otherwise, it will defeat the purpose of compassionate appointment as the basic purpose of compassionate appointment is that at the event of death of the bread earner, the family comes under the distress, to tide over the financial crises, the compassionate appointment is required to be given. If the compassionate appointment is considered after a decade, in such circumstances, it will be destructive of its purpose and, as such, this Court does not find any merit in the present case.

With the aforementioned observation, this writ application is dismissed.

(Shivaji Pandey, J)

rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.09.2018
Transmission Date	

