

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7594 of 2017

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Mangal Bahadur S/o late Ramu Bahadur Resident of Mohalla- Hospital Colony,
Valmiki Nagar, P.S. Valmiki Nagar, District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department (Irrigation Department) Bihar, Patna
2. The Engineer-in-Chief, Water Resources Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Motihari
4. The Superintending Engineer, Tirhut Nahar Anchal, Bettiah, West Champaran.
5. The Executive Engineer, Tirhut Nahar Pramandal No. 1, Bettiah, West Champaran.
6. The District Magistrate, West Champaran, Bettiah.
7. The District Magistrate Cum- President , District Compassionate Appointment Committee, West Champaran, Bettiah
7. The Deputy Collector, District Establishment, West Champaran, Bettiah.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Tara Nath Jha

For the Respondent/s : Mr. V.K. Singh- GA2

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 09-05-2018

1. The petitioner, by way of the present writ petition, has prayed for quashing the order passed by the respondent no. 6, so far it relates to the petitioner herein, which was communicated vide Memo no. 339 dated 02.08.2016 under the signature of respondent no. 8, whereby and whereunder the application of the petitioner for grant of compassionate appointment has been rejected. It has been further prayed to direct the respondents to grant compassionate appointment to the petitioner herein.



2. The brief facts of the case are that the father of the petitioner namely Ramu Bahadur died in harness on 26.01.1992 whereafter the petitioner herein had made an application on 24.12.1995 before the respondent no. 5 for grant of compassionate appointment, however the case of the petitioner was not considered.

3. The learned counsel for the petitioner has submitted that at the time of making application for compassionate appointment i.e. on 24.12.1995, the petitioner was possessing the qualification of Eighth class pass. It has been further submitted that the case of the petitioner has been wrongly rejected on the ground that there is no clear proof of the fact that the petitioner had submitted the application for appointment on compassionate ground within the prescribed time, inasmuch as the letter of the Executive Engineer, Tirhut Canal Division no.1 dated 13.06.2015 (Annexure 2 to the writ petition) would show that the petitioner had filed application on 24.12.1995. It is further contended that the other reason on which the case of the petitioner has been rejected is that there is no basis for considering the case of the petitioner for appointment on compassionate ground after a lapse of 24 years from the death of the government employee, is also *non est* in the eyes of law.

4. *Per contra*, the learned counsel for the respondents has submitted that the present writ petition is barred on the ground of



delay and laches on the part of the petitioner in approaching this Hon'ble Court, inasmuch as, the present writ petition has been filed almost after 25 years of death of his father, hence the present writ petition is fit to be dismissed on the sole ground of unwarranted delay and laches on the part of the petitioner.

5. I have heard the learned counsel for the parties and perused the materials on record. I find from the records that the petitioner has not produced any proof of filing the application for appointment on compassionate ground on 24.12.1995 and instead, has merely referred to an internal communication made by the Executive Engineer to the Superintending Engineer dated 13.06.2015 (Annexure-2 to the writ petition) wherein reference has been made to the purported application of the petitioner dated 24.12.1995, hence it cannot be conclusively said that the petitioner had applied for appointment on compassionate ground within time. Nonetheless, the fact remains that the petitioner kept sitting over the matter since the year 1995 and did not agitate his grievances before this Court but has now suddenly woken up from his deep slumber and filed a writ petition in the year 2017 after a lapse of about 17 years, hence the present writ petition clearly suffers from the vice of delay, laches and acquiescence specially since the equitable jurisdiction of this Court under Article 226 of the Constitution of India cannot be invoked after



17 years of hypersomnia. Infact, the delay of 17 years in filing the present writ petition has not at all been explained by the petitioner, hence there is no reason to entertain the present writ petition.

6. It is a trite law as held by the Hon'ble Apex Court in a judgment reported in *1994 (4) SCC 138 (Umesh Kumar Nagpal v. State of Haryana)* that compassionate appointment is not a source of appointment but is to provide solace to the family on account of untimely death of the bread earner. Long delay in not asserting any one's rights is a justified cause in not entertaining the application for compassionate appointment.

7. It is clearly a well settled law that appointment on compassionate ground is a deviation from the normal rule of recruitment and the same has been conceived with the object of providing immediate financial relief to the dependents of a person who dies during his employment, hence the same is intended to be a financial measure and not a means of obtaining employment as a matter of course by avoiding the rules of recruitment applicable to others.

8. It has been held in catena of decisions that compassionate appointment is intended to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means



of livelihood.

9. Having regard to the facts and circumstances of the case both on merits as on the ground of delay of about 25 years since the death of the father of the petitioner, on the part of the petitioner in not moving this Court, this Court finds it impossible to issue direction for appointment of the petitioner on compassionate ground. The death of the father of the petitioner took place about 25 years back and if the petitioner has been able to survive in these 25 years, he cannot be said to be in the state of penury or without means of livelihood, as has been held in the case of *Umesh Kumar Nagpal (supra)*.

10. That being so, this Court does not find any merit in the present writ petition and the same is accordingly, dismissed.

(Mohit Kumar Shah, J)

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CAV DATE	-
Uploading Date	08.06.2018
Transmission Date	

