

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.11 of 2018

In
Civil Writ Jurisdiction Case No.2159 of 2016

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Nibha Kumari Daughter of Late Nathuni Sah, wife of Ram Lakhan Sah
Resident of Mohalla- Ward No- 03, Nariyar Road, District- Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Commissioner, Health Department, Bihar, Patna.
3. The District Magistrate, Saharsa.
4. The Civil Surgeon cum Chief Medical Officer, Saharsa.

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms. Monika, Advocate
For the Respondent/s : Mr. S.D.Yadav -AAG 9

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-11-2018

I.A. No.44 of 2018

Having heard learned Counsel for the parties, we are satisfied that the delay has been sufficiently explained. The delay condonation application is allowed. The appeal shall be treated to be within time.

L.P.A. No.11 of 2018

Heard Ms. Monika, learned Counsel for the appellant, and Shri S.D. Yadav, learned Counsel for the State.



This is a small dispute with regard to the claim of compassionate appointment by the appellant who is the sole married daughter of her deceased father.

The mother of the appellant had applied, but her claim came to be rejected on the ground that she did not hold the requisite qualifications for being appointed on compassionate basis.

It is undisputed at the Bar that the appellant has a right to be considered in her own independent individual capacity for compassionate appointment.

So far as the rejection of the claim of her mother is concerned, it is evident from the impugned judgement that earlier her mother had contested her claim which she lost up to the stage of L.P.A. No.1315 of 2011 which was dismissed on 26th September, 2011.

Another objection which has been taken by the learned counsel for the State is that the claim of the appellant is belated and beyond the statutory period as prescribed for claiming the benefit of compassionate appointment.

We are of the considered opinion that in the background aforesaid, when the mother has been non-suited and the appellant is the only married daughter seeking compassionate appointment,



then in that event, the respondent should favourably consider relaxing the period for entertaining the application in the background that the mother was already agitating the claim up to the High Court in the past.

Consequently, we set aside the judgement dated 6.11.2017 and allow the appeal with a direction to the Principal Secretary of the concerned Department, Government of Bihar to consider the aforesaid request of the appellant keeping in view the fact that she is the sole married daughter of her deceased father and also that she may be in need of compassionate appointment.

It shall be open for the authority to also consider the issue of limitation before proceeding to grant any such benefit in accordance with law.

The decision shall be taken by the competent authority as expeditiously as possible, preferably within 3 months from the date of production of a certified copy of the order before him.

Learned counsel for the State submits that the competent authority will be the Principal Secretary, Department of General Administration, who will look into the matter. A certified copy of this order shall be filed before the said authority along with the application of the appellant for disposal. The authority concerned shall call for the reports from the concerned authorities before



proceeding in the matter. The appeal and writ petition stand disposed of accordingly.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/Uma/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.12.2018
Transmission Date	N/A

