

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18252 of 2017

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1. Santosh Kumar Sardar, S/o Late Dukha Sardar, R/v- Pattarghatti, P.S.-
Tirveniganj, Distt- Supaul.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Director (Udyan Nidesalaya), Government of Bihar, Patna, 1st Floor, Pant Bhawan, Bailey Road, Patna- 800001.
4. The Additional Collector (Establishment) Collectorate, Patna.
5. The District Magistrate, Patna.
6. The District Magistrate cum Chairman of District Level Compassionate Committee, Collectorate, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Sinha
Mr. Arvind Kr. Srivastava
Mr. S.K. Bhagnagar

For the Respondent/s : Mr. GAJENDRA PD.YADAV-SC17
Mr. Jainendra Kr. Sinha, A.C. to S.C.17.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-07-2018

1. Heard learned counsel for the petitioner and counter appearing on behalf of the State.

2. In this case, the petitioner is seeking a direction in the shape of Mandamus directing the respondents to appoint the petitioner on compassionate ground on account of death of his father who was working in the State of Bihar attached as Udyan Sevek in the office of Director, Agriculture Department, Government of Bihar, Patna. The father has died on 21.12.2008 in harness and whereafter the petitioner



on 09/09/09 filed application along with 13 documents to the Director, Agriculture Department, Govt. of Bihar, for the compassionate appointment. But his application has been rejected on the ground that his application were received by the Compassionate Appointment Committee on 18.11.2016, i.e., beyond five years as per the circular of State Govt. maximum period provided for filing application is five years and as such the claim of the petitioner for compassionate appointment has been rejected.

3. The counsel for the petitioner has pointed out that the reason recorded by the Compassionate Appointment Committee is per se illegal and not unsustainable in law, in view of the fact that he filed application along with all the required document on 09/09/09 and sought relief for compassionate appointment.

4. In the counter affidavit and supplementary counter affidavit, the State has tried to show that the petition which was filed were not complete and not in a proper form and as such his application were not processed and did not recommend for compassionate committee in order to substantiate his submission, he has brought to the notice of different letters dated 16.03.2010, 19.07.2010 and 21.11.2011. So far the letter dated 16.03.2010 and 19.07.2010 are concerned, it does not give a detail the wanting papers



which was required for consideration for selection but in letter dated 21.11.2011, 16 documents have been mentioned for removal all the defects. The counsel for the petitioner submitted that entire documents were sent along with application dt.09/09/09 nothing further will require to be filed. The plea that has been taken by the State that on account of deficiency of records, his application could not be processed and referred to the Committee within the time, the law is very much clear that the Compassionate Committee will see as to whether the application was filed within the time prescribed, not that Committee would receive the application with records. Even if some defects were there that would be rectified cannot be a basis for rejection of the application. Inasmuch as the application of the petitioner for appointment never rejected save and except by the impugned petition.

5. In such view of the matter, the reason assigned by the State refusing to select the petitioner for compassionate appointment is set aside and this Court directs Compassionate Committee to consider the case of the petitioner treating that the application has been filed within the time prescribed as per the law prescribed for filing application not reaching the application to the Compassionate Committee within five years.



6.

In such view of the matter, this petition is allowed with a direction to consider the case of the petitioner within the period of three months from the date of production of a copy of this order. For convenience the petitioner is directed to file application along with this order to the appropriate authority for taking necessary action.
7.

With the aforesaid direction, this writ petition is allowed.

(Shivaji Pandey, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.08.2018
Transmission Date	NA

