

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.340 of 2019

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Raj Kumar Chaudhary S/o Munni Chaudhary, Resident of House No.16, Mir Gulab Ke Bag, P.S.- Khajekala, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Health Services, Health Department, Government of Bihar, Patna.
3. The District Compassionate Appointment Committee through the Collector-cum-Chairman, Buxar.
4. The Deputy Collector Establishment, Buxar.
5. The Civil Surgeon-cum-Chief Medical Officer, Buxar.
6. The Medical Officer In-Charge, Primary Health Center, Rajpur, District-Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gajendra Kumar Jha Mr.Sushil Kumar Jha
For the Respondent/s	:	Mr.Niraj Kumar, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-09-2019

Heard counsel for the petitioner and counsel for the respondents-State.

Being husband of the deceased employee who died in harness while working as ANM on 20.04.2010, petitioner claims for grant of compassionate appointment. Claim of the petitioner has been rejected by the authority by assigning reason that same was time barred as the petitioner had made his application claiming benefit belatedly i.e. on 11.04.2016. Application beyond five years time limit prescribed for such application has been turned down by the authority. Rejection of the



petitioner's claim is by the District Compassionate Committee in its meeting held on 30.01.2018.

Claim of the petitioner was thereafter forwarded for reconsideration by the Civil Surgeon-cum-Chief Medical Officer, Buxar under communication dated 20.07.2018. Considering the fact that earlier application of the petitioner was time barred and had been rejected, the District Compassionate Committee again rejected petitioner's claim. The Committee was of the opinion that there was no scope for reviewing earlier decision contained in minutes of the meeting of the Compassionate Committee dated 30.01.2018.

In view of the aforesaid facts, State was called upon to file a counter affidavit. They have supported the decision that claim of the petitioner was time barred.

Petitioner's counsel draws the attention of the court towards the communication of the Civil Surgeon-cum-Chief Medical Officer, Buxar dated 11.07.2013 about three years after petitioner's wife died in harness. The same records the fact that the petitioner was claiming post retiral dues as well as compassionate appointment on account of death of his wife in harness.

From the said communication, it is clear that within five years period prescribed, petitioner has raised his claim for post retiral dues as well as compassionate appointment. Letter dated 12.02.2014 was also issued by the In-charge Medical Officer, Primary Health Center, Rajpur to the petitioner asking the petitioner to produce



succession certificate. Authority has insisted on succession certificate since some other had also made his claim for the same benefit on account of death of the petitioner's wife Kiran Devi claiming to be her husband.

From the aforesaid facts which are not in dispute, it is apparent that the petitioner has raised his claim within five years i.e. at least prior to 11.07.2013 as has been noticed in the communication of Civil Surgeon-cum-Chief Medical Officer (Annexure 3).

In view of communication dated 12.02.2014 issued by the In-charge Medical Officer, it is apparent that authority is insisting for producing succession certificate for availing benefit of family pension and compassionate appointment on account of death of petitioner's wife in harness. Succession certificate has been issued on 06.10.2015 by the competent court in Succession Case no. 504/2014 in favour of the petitioner. Petitioner upon obtaining succession certificate again made his application on 11.04.2016. In the aforesaid facts, application dated 11.04.2016 cannot be said to be time barred as the petitioner has been claiming diligently since prior to 11.07.2013. Five years period would lapse only in April, 2016. In the meantime, requirement of succession certificate was insisted by the authority and after obtaining the same, it has been produced with application on 11.04.2016. Claim in this circumstance cannot be said to be time barred.

Rejection of petitioner's claim for compassionate appointment as being time barred is not sustainable. In view of the



aforesaid fact rejection of petitioner's claim under minutes of the meeting of the District Compassionate Committee dated 30.01.2018 is thus quashed.

Since second consideration on 23.07.2018 is also on the same ground and only sustaining the reason assigned in earlier meeting dated 30.01.2018, decision dated 23.07.2018, the same is also not sustainable and is quashed.

Authority would be obliged to consider the petitioner's claim without raising the issue the same being time barred.

Let fresh consideration be made by respondent no.3 in accordance with law expeditiously, without undue delay and preferably, within three months from the date of receipt/production of a copy of this order.

Writ petition is allowed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.9.2019
Transmission Date	NA

