

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6426 of 2015

1. Raja Kumar Singh and Anr. son of Late Rambahadur Singh of village P.O. - Valba Kuwari, P.S. Hajipur Sadar, District - Vaishali.
2. Tribhuwan Devi wife of Late Rambahadur Singh of village P.O. - Valba Kuwari, P.S. Hajipur Sadar, District - Vaishali.

... .. Petitioners

Versus

1. The State Of Bihar
2. The District Judge, Vaishali at Hajipur.
3. The Registrar, Civil Court, Vaishali at Hajipur.

... .. Respondents

Appearance :

For the Petitioners	:	Mr. Lakshmi Kant Tiwary, Advocate
		Mr. Nitesh Kumar, Advocate
For the Respondents	:	Mr. Harish Kumar, GP 8

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-03-2019

Heard learned counsel for the petitioners as well as learned counsel appearing for the State.

The petitioners have assailed rejection of claim for compassionate appointment of petitioner no.1 on the ground of rule of harness. As per claim, petitioner no.1 is son of second wife of deceased Rambahadur Singh, who was working on a Grade IV post in the Civil Court, Vaishali at Hajipur at the time of his death.



Facts lies in very narrow compass. Claim of the petitioner has been rejected as being time barred as the same has been made much after the requisite period of five years.

Claim has been made by petitioner no.2 in favour of petitioner no.1 by application dated 24.3.2014, when the death of the employee in harness has occurred long back, i.e., on 16.7.1997. 17 years after death in harness, application has been made by the petitioner no.2 in favour of petitioner no.1. Accordingly, same has been rejected on the ground of the same being belated and much after the prescribed period of five years.

Petitioners' counsel has relied upon decisions of this Court reported in case of **Chandra Bhushan Singh Vs. the State of Bihar and others** reported in 1997(1) PLJR 626 and in the case of **Mosmat Usha Kuar Vs. the State of Bihar and others**, reported in 1998(1) PLJR 560.

The decision in the case of **Chandra Bhushan Singh** (supra) is totally on different consideration and does not apply to the facts and circumstances of this case. As per said judgment claim of the petitioner cannot be extinguished by delay when delay has been occasioned by the authorities themselves in considering the claim for compassionate appointment. The case of **Mosmat Usha Kuar** (supra) also does not help the case of the petitioners.



A different issue of entitlement of the second wife for benefits of compassionate appointment has been considered therein.

This Court would find that petitioner no.2 had earlier filed CWJC No. 8138 of 2000 for consideration of her claim for compassionate appointment as second wife of the deceased. From the order dated 13.10.2004, passed in CWJC No. 8138 of 2000, copy of which has been submitted by petitioner's counsel in the Court, it is apparent that claim of the petitioner no.2 was rejected during pendency of the writ proceedings. To enable her to challenge the rejection order writ petition was permitted to be withdrawn. Having availed such liberty claiming to be second wife of the deceased employee petitioner no.2 has not availed of the liberty granted long back under order dated 13.10.2004.

Petitioner no.2 who claimed herself to be second wife of the deceased employee in CWJC No. 8138 of 2000, has claimed to be the first wife of the deceased employee in the instant proceedings and has filed the writ petition for espousing the cause of petitioner no.1 claiming that he is the son of second wife of deceased employee.

The facts present unique circumstance where claim of compassionate appointment has been made by petitioner no.2 under two different capacities in the two different proceedings



arising out of CWJC No. 8138 of 2000 and the instant proceedings.

However, validity of the rejection in the instant proceedings is the issue before this Court. From the facts on record it is apparent that petitioner no.1 was aged three years at the time of death of employee in harness on 16.7.1997. He has attained majority in the year 2012. Application for his compassionate appointment has been made by petitioner no.2 in the year 2014.

In this connection, this Court would approve the submission of respondent State counsel on the basis of decision of the Division Bench of this Court in case of **Baijnath Das Vs. the State of Bihar and others** reported in **2002(1) PLJR 657**. The concept of compassionate appointment vis-a-vis long delay in application for benefit of compassionate appointment has been considered by the Division Bench in the case of **Baijnath Das** (supra).

This Court would refer to and extract relevant paragraph of the said judgment which is as follows:-

“Counsel for the appellant petitioner acknowledges that when the appellant-petitioner’s father died he was six years of age. This matter of compassionate appointments must not be reduced to a ridiculous proposition that a job must wait for the ward of a Government servant, like in a present case, for 17 years. The very principle of the appointments on compassionate ground will then be destroyed. The



cardinal principle is to give succour to the affected family of a Government servant. There is not a circumstance of immediate succour in this case. Dismissed.”

Having regard to the settled legal position from the judgment of the Division Bench in the case of **Baijnath Das** (supra) delayed claim of the petitioners made about 17 years after demise of the employee in harness is not tenable.

Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
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