

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6342 of 2019

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Sudarshan Paswan @ Sudarshan Pasawan, son of Late Rudal Hazra, resident of Village- Gaunaria, P.S.- Yogapatti, District- West Champaran at Bettiah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, West Champaran.
4. The Deputy Collector (District Establishment), West Champaran.
5. The Circle Officer, Yogapatti, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dilip Kumar Tiwari, Advocate
For the Respondent/s : Mr. Saroj Kumar, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 23-04-2019

Heard Mr. Dilip Kumar Tiwari, learned advocate for the petitioner and Mr. Saroj Kumar, learned AC to AAG-3.

2. The petitioner is aggrieved by the decision of the District Compassionate Appointment Committee dated 25.04.2018 contained in Memo No. 566 whereby his claim for being appointed on compassionate ground has been rejected on the ground that the death of his father had taken place on 14.01.2010 but the application was made on 26.11.2015 i.e. after the lapse of five years of the death and therefore, the case of the petitioner was not worth



considering.

3. The learned advocate for the petitioner has submitted that immediately after the death of his father, who died in harness, the petitioner made an application for being appointed on compassionate ground in order to help the family in distress. In the aforesaid instance, by order dated 15.02.2012, the case of the petitioner was not considered for the post of *Chaukidar* as the minimum educational qualification for a *Chaukidar* at that time was 10th pass whereas the petitioner had only passed 8th standard examination.

4. However, from looking at the order passed in the year 2012, referred to above, it appears that the District Compassionate Appointment Committee directed for a fresh nomination of any member of the family of the deceased employee, who had the requisite qualification of 10th standard so that his case could be considered for the post of *Chaukidar* on compassionate ground.

5. Mr. Tiwari, learned advocate for the petitioner, in the first instance submits that in the year 2012 when an



application was made by the petitioner for being appointed on compassionate ground, it was not necessary for the Committee to have considered him only for the post of *Chaukidar* for which there may have been a requirement of being 10th pass. He could have been appointed on any Class-IV post where there was no requirement of any educational qualification.

6. The aforesaid argument is not convincing for the reason that the petitioner never challenged the aforesaid order before any court of law.

7. In any view of the matter, it appears from the pleadings made in the writ petition that the papers regarding the candidature of the petitioner for compassionate appointment was forwarded by the office of the Circle Officer, Yogapatti and the District Compassionate Appointment Committee again found that certain/requisite information was not available with the records of the petitioner and therefore, the matter was remitted to the office again for submitting a complete report.

8. The case of the petitioner was considered again in



the year 2017 when the District Compassionate Appointment Committee again found the papers incomplete. Ultimately, the case of the petitioner was finally considered by the District Compassionate Appointment Committee in the year 2017, when the impugned order was passed.

9. The learned counsel for the petitioner has sought to challenge the order impugned on various grounds viz. that since the process of consideration continued till 2017, the petitioner ought not to be shut out from being considered on the ground of delay; the Circular of the General Administration Department at that time required a person to be only 8th pass for the post of *Chaukidar* and sending of incomplete papers of the petitioner by the Circle Officer, Yogapatti cannot be attributed to the petitioner and read against him for the delay.

10. All the aforesaid arguments are of no avail to the petitioner for the reason that there was no challenge to the order of the District Compassionate Appointment Committee passed in the year 2012. The consideration of the petitioner again on the recommendation of the Circle



Officer, Yogapatti for being appointed on compassionate ground did not contain any such information that earlier the prayer of the petitioner was rejected with a stipulation that anybody in the family of the deceased employee could be given appointment if he had the requisite qualification of 10th pass.

11. In the absence of any such information, all further considerations of the petitioner till the year 2017 was only because of non-supply of relevant information by the office and it could only be taken as a grace to the petitioner.

12. The only argument of Mr. Tiwari, learned advocate for the petitioner, which has caught the attention of this Court is that at all times when the District Compassionate Appointment Committee sat to discuss the case of the petitioner, the discussion veered around the qualification of the petitioner for being appointed on the post of *Chaukidar*. Mr. Tiwari insists that there was no request in the application for being appointed on the post of *Chaukidar* only and the petitioner would have been satisfied if he had been given any Class-IV post not requiring any such



qualification.

13. This argument also is not fully acceptable because whatever may be the reason for non-consideration of the case of the petitioner, nine years have passed by after the death of the deceased employee and therefore the whole purpose of framing a scheme for compassionate appointment viz. to provide assistance to the beleaguered family in case of cessation of the supply line with the death of the sole earning member, giving appointment on compassionate ground after nine years of death would amount to frittering away employment opportunities, which is a national wealth.

14. In any view of the matter, this court though does not find any fault with the decision of the District Compassionate Appointment Committee dated 25.04.2018 contained in Memo No. 566, which has been impugned in the present petition, nonetheless, since the petitioner is ready to offer his candidature for being appointed on any Class-IV post, it would be solely upon the District Compassionate Appointment Committee to reconsider the case of the petitioner and, if at all, there is any scope of



consideration of the petitioner, the same be accorded to him, keeping in mind that petitioner is only 27 years of age and he has to look after his family.

15. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27/04/2019

