

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13531 of 2019

=====

Sangam Kumar S/o Late Shashi Chandra Tiwari Resident of Mohalla Naya
Tola Bhikhanpur, Gumti No.1, P.S. Ishak Chak, Dist. Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Education, Govt. of Bihar, Patna
3. The District Magistrate cum Chairman, District Compassionate Committee, Bhagalpur
4. The District Programme Officer (Establishment), Education Department, Bhagalpur

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak, Advocate
For the Respondent/s : Smt. Shilpa Singh (GA-12)

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 08-07-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

The petitioner is aggrieved by the order of the respondents rejecting his application for compassionate appointment.

The application of the petitioner was rejected on the ground that he has approached for compassionate appointment after 17 years.

Earlier the petitioner has approached this Court by filing CWJC No. 7904 of 2017 which was dismissed as withdrawn on 15.12.2017, Annexure-5 to the writ petition with liberty to the petitioner to pursue his departmental remedy. The



Court while passing the order dated 15.12.2017 made it clear that the Court has not expressed any opinion on the merit of the case. After the order contained in Annexure-5, the matter was taken to the Principal Secretary, Primary Education Department, Government of Bihar, Patna who considered the case of the petitioner and noticing the fact that the petitioner applied for compassionate appointment on 4.10.2013 whereas the mother of the petitioner died on 31.8.1996, rejected the case of the petitioner since the petitioner approached for compassionate appointment after 17 years of death of his mother.

Compassionate appointment is not a reservation and it cannot be claimed as a matter of course. The policy decision of the State Government is to apply within five years and if the application is not filed on time, it is time barred.

Prabhu Nath Pathak, learned counsel for the petitioner heavily relied on the judgment of the Apex Court reported in **(2018) 17 SCC 67**. The decision of the Apex Court, which is heavily relied upon by the petitioner, is very clear on the point that the order was passed in exercise of jurisdiction under Article 142 of the Constitution and in the said order it was made clear that the order shall not be treated as precedent.

It is settled principle of law that the scheme of



compassionate appointment is designed to provide immediate financial assistance to the bereaved family on account of sudden death of the bread earner. If a family is survived for 17 years after the death of the bread earner, there is no occasion for consideration of the case for compassionate appointment and as such the Court does not find any infirmity in the decision of the Principal Secretary rejecting the application for compassionate appointment of the petitioner.

Having regard to the fact that the petitioner has approached for appointment on compassionate ground after 17 years of the death of the bread earner, the Court is not inclined to grant any indulgence. The petition being devoid of merit, is dismissed.

(Anil Kumar Upadhyay, J)

spandey/-

U			
---	--	--	--

