

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.969 of 2018

In
Civil Writ Jurisdiction Case No.13163 of 2010

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Gauri Shankar Prasad Son of Late Ram Bilash Pandit, Resident of Village and
P.O. Alipur, Bihta, Police Station- Bakhtiyarpur, District- Patna.

... .. Appellant/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Minor Irrigation Department, Bihar, Patna.
3. The District Magistrate, Patna.
4. The Superintending Engineer, Minor Irrigation Circle, Patna.
5. The Executive Engineer, Minor Irrigation Department, Barh, Patna. null null

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Prafull Chandra Jha
For the Respondent/s : Mr. Jitendra Kumar, AC to AAG 14

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
and
HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH)

Date : 25-09-2020

I.A. No. 5216 of 2018

The above mentioned Interlocutory application has been
filed by the appellant under Section 5 of the Limitation Act,
seeking condonation of delay of 75 days in filing the present
appeal against the order dated 02.04.2018 passed by the learned
Single Judge in CWJC No. 13163 of 2010.

Having considered the grounds taken in the limitation
petition explaining the delay, this Court is satisfied that the



appellant was prevented by sufficient cause for not preferring the appeal within time. Since learned counsel for the respondents has no objection to the same, delay in filing the present appeal is hereby condoned.

I.A. No. 5216 of 2018 accordingly stands disposed of.

L.P.A. No. 969 of 2018

Heard learned counsel for the appellant and learned counsel for the respondents.

The present appeal has been preferred against the order dated 02.04.2018 passed by the learned Single Judge in CWJC No. 13163 of 2010 while dismissing the claim of the appellant for his appointment on compassionate ground, has dismissed the writ application on the ground that the appellant did not possess requisite educational qualification of 8th pass on the date of consideration of his claim by the District Magistrate-cum-Chairman, District Level Compassionate Appointment Committee, Patna.

The factual matrix of the case is that the father of the appellant was working as driver in the Minor Irrigation Department, Government of Bihar who died in harness on 19.7.2001. On 25.7.2002, an application claiming



compassionate appointment, was submitted by the appellant before the Executive Engineer, Minor Irrigation Department, Barh Division. The District Magistrate-cum-Chairman, District Level Compassionate Committee, Patna vide Memo No. 66 Mu/Establishment, Patna, dated 30.11.2002, as contained in Annexure 7 to the writ application, rejected the claim of the appellant on the ground that the appellant is not having the requisite educational qualification of Class 8th pass on the date of application. The said order was challenged through the writ application being CWJC No. 13163 of 2010. The learned Single Judge did not find any fault with the order of the District Magistrate-cum-Chairman, District Level Compassionate Appointment Committee, Patna since the appellant did not have the requisite educational qualification, i.e., minimum Class 8th pass as on the date of consideration he was studying in Class VIII.

Learned counsel for the appellant submits that the appellant was studying in Class VIII at the time of submitting his application claiming compassionate appointment, hence, the case ought to have been considered sympathetically by the District Level Compassionate Appointment Committee. It is further submitted that the department recommended for the



compassionate appointment but the recommendation was not considered in its true perspective and that the appellant ought to have been considered for appointment on Class IV post.

Per contra, learned counsel for the respondents submits that the appellant did not have the requisite educational qualification on the date of making application for compassionate appointment. Moreover, the appellant preferred the writ application after eight years of rejection of his claim of compassionate appointment by the District Level Compassionate Appointment Committee.

Considering the rival submissions of learned counsels for the parties, it appears that this is admitted position that the requisite qualification for compassionate appointment on Class IV post was Class 8th pass and the appellant was studying in Class VIII on the date of application for such appointment. There is nothing on record to suggest that even on the date of order being passed, i.e., 30.11.2002, the appellant acquired requisite educational qualification. More over, the father of the appellant died in the year 2001. The District Level Compassionate Appointment Committee rejected the claim of the appellant on 30.11.2002 whereas the writ application was preferred in 2010, after eight years, hence, we do not find any



infirmity in the order of the learned Single Judge.

The basic purpose of compassionate appointment is to provide immediate financial support to the family of the government employee who died in harness but, in the present case, since 19 years have elapsed since the father of the appellant died, on this score also, the impugned order need not be interfered with.

Accordingly, this Letters Patent Appeal is dismissed.

There shall be no order as to costs.

(Dinesh Kumar Singh, J)

(Anil Kumar Sinha, J)

Prabhakar
Anand/-Anil/

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

