

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11994 of 2019

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Rakesh Roshan Son of Late Madan Yadav, Resident of Mohalla-
Chiraiyatand, P.S. Rampur, District- Gaya. Petitioner/s

Versus

1. The State of Bihar Through, the Chief Secretary, Government of Bihar,
Patna.
2. District Compassionate Committee Through its Chairman, District Gaya.
3. District Magistrate, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Anisur Rahman, Advocate
For the Respondent/s : Mr.Shailesh Kumar AC to (Gp5)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 20-05-2021 Heard learned counsel for the petitioner and the State.

On 18.03.2021 the Court indicated in the order that in a case where the applicant has moved for compassionate appointment on the ground of presumed death, the period of 5 years was not to reckon from the date the bread earner was found missing but after expiry of 7 years period from the date of missing of the bread earner and as such the rejection of claim of the petitioner as barred by limitation of five years suffers from the vice of total non-application of mind.

The Court on the previous occasion directed the respondents to adopt corrective measures and file appropriate affidavit but notwithstanding the indulgence granted by this Court neither corrective measures has been taken nor the appropriate affidavit has been filed in this case.



In the aforesaid circumstances, the Court is constrained to allow the writ petition. The decision rejecting the claim of the petitioner, as contained in Annexure-12 is hereby quashed. The respondents are hereby directed to consider the case of the petitioner for compassionate appointment afresh. The case of the petitioner shall not be rejected by the respondents on the ground that the petitioner has made application after 5 years period prescribed for grant of compassionate appointment. The respondents are required to take into consideration the legal presumption as to death in a case where the individual is found missing for more than seven years. Necessary decision in the matter of appointment of the petitioner on compassionate ground must be taken by the respondents within a period of 30 days from the date of receipt/production of a copy of this order and the petitioner shall be granted all the consequential benefits within a further period of two months.

With the aforesaid observation/direction, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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