

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1547 of 2022

Ashish Raman Singh Son of Late Arvind Kumar Singh, Resident of Quarter No. 578/B, O.T. Para, District-Katihar-854105 (Bihar).

... .. Petitioner/s

Versus

1. The Union of India through the General Manager, Eastern Railway, 17, Neta Je Subash Road, Kolkata, Pin Code-700001 (W.B.).
2. The General Manager (Personnel) Eastern Railway, Fairlie Place, Kolkata, Pin Code-700001 (W.B.).
3. The Divisional Railway Manager, Eastern Railway, Asansol District-Burdwan, Pin Code-713301 (W.B.).
4. The Senior Divisional Personnel Officer, Eastern Railway, Asansol District-Burdwan, Pin Code-713301 (W.B.).
5. The Senior Divisional Electrical Engineer/TRS, Eastern Railway, Asansol District-Burdwan, Pin Code-713301 (W.B.).
6. The Senior Divisional Financial Manager, Eastern Railway, Asansol District-Burdwan, Pin Code-713301 (W.B.).
7. The Principal Electrical Loco Training Centre, Eastern Railway, Asansol District-Burdwan, Pin Code-713301 (W.B.).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Munna Pd. Dixit, Advocate Mr.Sanjay Kr. Chaubey, Advocate
For the Respondent/s	:	Mr.Awadhesh Kr. Pandey, Sr.Panel Counsel Mr.Ravinder Kr. Sharma, CGC Mr.Komal Chowbey, Advocate Mr.Saket Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 01-11-2022

In the instant petition, petitioner has assailed the order of the Tribunal passed in O.A. No. 050/00490 dated 29.09.2021.



The grievance of the petitioner is that he is entitled to compassionate appointment on the ground that his father Arvind Kumar Singh who was appointed as Assistant Driver (Electric) in the scale of Rs. 3050-4500/- (RSRP) on stipend of Rs. 2750-70-2820/- per month plus usual allowances as per extent rules vide communication dated 06.10.1998. Mr. Arvind Kumar Singh died on 28.08.1999 within a one year from the date of his appointment read with posting him on training. At the relevant point of time petitioner was just 10 months old. Further, his mother Bimla Singh died on 01.01.2014.

02. In the meanwhile, she was extended family pension on 28.01.2003. Petitioner was a minor at the relevant point of time, therefore, as and when he attains major he submitted application for compassionate appointment in year 2017. It was rejected on the ground of delay read with the policy decision dated 04.06.2019. The tribunal has also apprise the delay in seeking compassionate appointment and rejected claim of the petitioner hence, the present petition.

03. Learned counsel for the petitioner vehemently contended that in terms of the policy in respect of compassionate appointment in Railway Department it was dated 28.07.2000. Even as on the date of his application in the year 2017 policy dated



28.07.2000 was invoked. In the aforesaid policy there is a provision for providing compassionate appointment as and when children of the deceased employee are entitled to make application for compassionate appointment as and when they attains 20 years of age. The said policy also has not been appreciated by the authorities and the Tribunal.

04. On the other hand, while rejecting the petitioner's claim for compassionate appointment they are relying on 04.06.2019 later policy. It is further submitted that similarly situated persons have been extended compassionate appointment and it was at the behest of the Tribunal.

05. *Per contra*, learned counsel for the respondent resisted the aforesaid contentions and submitted that petitioner's father deceased Arvind Kumar Singh died on 28.08.1999 whereas, the petitioner application for compassionate appointment is of the year 2017, therefore, there is an inordinate delay in seeking compassionate appointment.

06. In the result, the petitioner is not entitled. Even though policy dated 28.07.2000 provides for submission of application for compassionate appointment as and when children of the deceased attain 20 years. It is also submitted that in fact petitioner's father deceased Arvind Kumar Singh has not even



rendered one year of service, as he was appointed in the year 1998 and he died on 28.09.1999. Mother of the petitioner should have submitted application for compassionate appointment. It is also submitted that time and again Court's have held that belated claim of compassionate appointment should not be entertained by the authority/judicial forum.

07. Heard the learned counsel for the respective parties.

08. Question for consideration in the present petition is whether petitioner is entitled to compassionate appointment on account of his father deceased Arvind Kumar Singh died on 28.08.1999 and it could be entertained in the year 2017 or not? The petitioner is relying on compassionate appointment policy dated 28.07.2000 with reference to his application in the year 2017. Policy of compassionate appointment is required to be taken note of with reference to date of death of the deceased, i.e., 28.08.1999 and not with reference to policy dated 28.07.2000 as claimed by the petitioner. At the same time, the official respondents have also taken into consideration later policy dated 04.06.2019 which is also incorrect.

09. Apex court time and again held that whatever the policy existing as on the date of deceased is required to be applied and not as and when children of the deceased employee submits



application for compassionate appointment. Further, it is to be noted that there is inordinate delay in claiming compassionate appointment. Petitioner's father deceased Arvind Kumar Singh died on 28.08.1999, his mother has been extended pension in the year 2003. Further, application for compassionate appointment was made in the year 2017.

10. The Hon'ble Supreme Court held that claim of compassionate appointment is not a fundamental right. It is only a social legislation in order to overcome immediate harness in the family. In the present case, petitioner's family has overcome the harness in the family during the year 1999 to 2003. That apart it is to be noted that petitioner mother was extended pension any benefits even though petitioner's father deceased Arvind Kumar Singh rendered less than one year of service.

11. The learned counsel for the petitioner submitted that similarly placed persons have been extended compassionate appointment at the behest of the Tribunal. The same can not be appreciated for the reasons that illegality cannot be perpetuated. The Apex Court in the following decisions have elaborately considered delay in claiming compassionate appointment as well as claimant has no fundamental right to claim for compassionate appointment.



- (i) Union Of India & Another vs. Shashank Goswami & Another reported in 2012 11 SCC 307.*
- (ii) Shreejith L. vs. Deputy Director (Education) Kerala and Others reported in 2012 7 SCC 248.*
- (iii) Dhalla Ram vs. Union Of India And Others reported in 1997 11 SCC 201.*
- (iv) State of Uttar Pradesh and Others vs. Premlata reported in (2022) 1 SCC 30.*

12. In the light of these facts and circumstances, no interference is called for in respect of Tribunal’s order and decision of the Railway authorities in rejecting the petitioner claim for compassionate appointment.

13. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

abhishek/aditya

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	04.11.2022
Transmission Date	N/A

