

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5620 of 2021

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Mahesh Singh Son of Late Shambhu Singh Resident of Village- Ramjee
Chak, Digha, Bataganj, P.S.- Digha, District- Patna 18

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Labour Department,
Bihar, Patna
2. The District Magistrate, Patna Patna
3. The Labour Commissioner, Patna Division, Patna Patna
4. The Labour Assistant, Patna Collectorate, Patna Patna
5. The Labour Superintendent, Patna Patna
6. The Managing Director, Bata India Limited, Bataganj Patna
7. The Manager, Bata India Limited, P.S.- Digha, P.O. - Dighaganj, District-
Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Naresh Prasad
For the Respondent/s : Ms. Shilpi Keshari

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 04-02-2022

The matter is heard *via* video conferencing due to
circumstances prevailing on account of the COVID-19 pandemic.

2. In the instant petition, petitioner has prayed for the
following relief/reliefs:

“That this writ application is being filed on behalf of
the petitioner abovenamed for issuance of an appropriate
writ/writs, order/orders, direction/directions in the nature of
Mandamus to the respondent concerned to appoint the
petitioner on compassionate ground on the appropriate post
under the respondent no. 6 as his father Late Shambhu Singh
died in harness during his service period on 24.10.2005.”



3. Petitioner's father Sri. Shambhu Singh died on 24.10.2005. The petitioner is stated to have submitted representation for the first time on 06.05.2009 *vide* Annexure 3, thereafter, submitted representation to the Hon'ble Chief Minister on 28.04.2017 in the meantime he had also submitted representation to the Joint Commissioner, Labour Department on 09.10.2013 and 06.08.2013 followed by legal notice on 30.12.2020.

4. Perusal of the aforesaid dates and events, it is crystal clear that there is delay and laches on the part of the petitioner in seeking compassionate appointment pursuant to the petitioner's father Sri. Shambhu Sing died on 24.10.2005. Apex Court in the case of ***State of Jammu and Kashmir V/s. R.K.Zalpuri and others*** reported in **AIR 2016 SC 3006 paragraph-20** has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) Adjudication of writ petition involves any complex and disputed question of facts and whether they can be satisfactorily resolved;



(b) The petition reveals all material facts;

(c) The petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) Person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) Ex facie barred by any laws of limitation;

(f) Grant of relief is against public policy or barred by any valid law; and host of other factors”

5. One of the principle laid down in the aforesaid decision is that if there is belated litigation, in other words, if there is any delay and laches in filing petition under Article 226, the same shall not be entertained. Further, Apex Court time and again held that compassionate appointment is not a fundamental right. Moreover, the petitioner’s family survived from 24.10.2005 to this day, therefore, *prima facie*, there no hardship in the family since the family survived for these many years.

6. In the light of above facts and circumstances, petitioner’s petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

Underline Emphasized

