

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.77 of 2020

In

Civil Writ Jurisdiction Case No.19058 of 2019

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1. Ranjeet Prasad Son of Late Ram Gopal Prasad Resident of Village- Rasalpur, P.S.- Fatuha, Distirct- Patna.
 2. Baljeet Kumar Son of Late Ram Gopal Prasad Resident of Village- Rasalpur, P.S.- Fatuha, Distirct- Patna.

... .. Appellants

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
3. The Joint Secretary, Home Department, Govt. of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Director General Commandant Bihar, Home Guard Police, Head Quarter, Patna.
6. The Commandant, Bihar Home Guard, Patna.
7. The Divisional Commandant, Tirhut Division Bihar, Home Guard, Muzaffarpur.
8. The District Officer (District Magistrate) cum Chairman, District Compassionate Committee, District Muzaffarpur.

... .. Respondents

Appearance :

For the Appellant/s : Mr.Arvind Kumar, Advocate

For the Respondent/s : Mr.Prabhat Kumar Verma (AAG3)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJIV ROY)

Date : 10-10-2022

Ref:- I.A. No. 1 of 2020

Heard the parties.

In view of the averments made in the Limitation



Petition, delay of 50 days in filing the appeal is condoned. The I.A. No. 1 of 2020 is allowed.

L.P.A. No. 77 of 2020.

The appellants are aggrieved by the order dated 4.11.2019 passed by the learned Single Judge in CWJC No. 19058 of 2019 by which the prayer for a direction to the respondents to consider appointment of appellant No. 2 on compassionate ground was rejected and the writ application was dismissed as devoid of merits.

2. The matrix of facts giving rise to present appeal is/are as follows:-

3. The appellants father was serving as a Constable in the Bihar Home Guards and died on 18.9.2001 while in service.

4. The appellant No. 1, Ranjeet Prasad, elder son of deceased employee-Ram Gopal Prasad preferred application for compassionate appointment and it was rejected on 26.6.2003 by the Divisional Commandant, Tirhut Division, Bihar Home Guards on the ground that he did not possess the minimum class 8th pass qualification needed for Class IV posts. The said order



was never challenged.

5. The appellant No. 2, Baljeet Kumar, the second son of the deceased Ram Gopal Prasad who was a minor in the year 2001 passed his matriculation examination in the year 2009. He preferred application for appointment on compassionate ground which was also rejected on 3.6.2010 observing that the same is time barred.

6. Nine years after the rejection of the said application, the CWJC No. 19058 of 2019 came to be preferred assailing the order of rejection.

7. The matter was heard by the Hon'ble Single Judge on 4.11.2019 and the same was dismissed vide a reasoned order stating there that :

“4. If what has been stated in the writ application is to be accepted, the petitioners are seeking direction for consideration of appointment of petitioner no. 2 by filing the present writ application in 2019 consequent upon death of his father in harness in 2001.

5. Admittedly, the petitioner no. 2 was 10 years of age when his father had



died. He did not have the requisite qualification for being considering for next eight years. Claim of his elder brother for appointment on compassionate ground was considered and that was rejected in 2003 itself.

6. In the background of the facts as noted above, I do not find any case to be made out for issuance of direction. This writ application is dismissed as devoid of merit.”

8. Aggrieved, the present appeal has been preferred by the appellants-petitioners.

9. Heard counsel for the parties.

10. It is an admitted fact that the father of the appellants namely Ram Gopal Prasad died on 18.9.2001 while serving with the Bihar Home Guards as a constable.

11. Appellant No. 1 preferred application for appointment on compassionate ground and it was rejected on 26.6.2003 by the respondent No. 7, the Divisional Commandant, Tirhut Division, Bihar Home Guards, Muzaffarpur holding that he did not possess



minimum qualification of 8th pass for Class IV employment (Annexure-3 to the writ petition).

12. Years later and after clearing matriculation examination in the year 2009, the appellant No. 2, the second son of late Ram Gopal Prasad took attempt for his appointment on compassionate ground which too came to be rejected on 3.6.2010 by the respondent No. 7 on the ground of same being time barred. (Annexure-8 of the writ petition).

13. The appellants took up the matter in the year 2019 before Patna High Court by filing writ petition vide CWJC No. 19058 of 2019 as stated above and the delay for filing the same was explained that they got knowledge of rejection of application only after they preferred application under the Right to Information Act in the year 2019.

14. The learned Single Judge dismissed the writ petition on 4.11.2019 holding that the same is devoid of merit.

15. The appellants-petitioners thereafter preferred this appeal.

16. We have gone through the facts of the case



and perused the order of the Single Judge.

17. The compassionate appointment is extended to a family member of the deceased employee to overcome the immediate loss that the family suffered due to the death of the bread earner and is not a right to be claimed after two decades after the death of an employee.

18. Apex Court in the following decisions elaborately considered under what circumstances compassionate appointment could be claimed and how it is to be considered like no vested/fundamental right to claim compassionate appointment and belated claim cannot be entertained :-

(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.

19. This Court thus do not find any infirmity in the order dated 4.11.2019 passed by the Hon’ble Single Judge in CWJC 19058 of 2019.

20. The appeal fails and is accordingly dismissed. No costs.

(P. B. Bajanthri, J)

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(Rajiv Roy, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.10.2022
Transmission Date	NA

