

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 8149 of 2021

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Brajesh Paswan son of Ram Vilas Paswan Resident of Village - Siuri, Ward
No. 6, P.O. - Manjhaul, PS- Cheriabariarpur, District Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The District Compassionate Committee through its Chairman, District Magistrate.
4. The District Magistrate, Begusarai, District- Begusarai.
5. The Incharge Officer, District General Branch, Begusarai District- Begusarai.
6. The Superintendent of Police, Begusarai Dist- Begusarai.
7. The Deputy Development Commissioner, Begusarai Dist- Begusarai.
8. Sub Divisional Officer, Begusarai Dist- Begusarai.
9. The Circle Officer, Cheriya Bariarpur, District- Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Dinu Kumar, Ritika Rani, Advocates

For the Respondent/s : Mr Dhurendra Kumar, AC to GP V

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 22-06-2022

Heard Mr Dinu Kumar for the petitioner as well as the
learned State Counsel.



2 The petitioner's father was a *Chowkidar*. He made an application for voluntary retirement and nomination of his son for appointment as *Chowkidar* in terms of the Bihar *Chaukidari* Cadre (Amendment) Rules (for brevity, *the Rules*), contained in Notification dated 05.03.2014. On realizing that the elder son, namely, Santosh Paswan is ineligible being overage, fresh application dated 15.09.2018 was submitted nominating the petitioner, younger brother of Santosh Paswan for appointment as *Chowkidar* in his place after accepting his voluntary retirement in terms of the Rules. The said application, made in favour of the petitioner, has been rejected by the District Compassionate Appointment Committee in its Meeting dated 17.10.2019 by assigning the following reasons:

“ आवेदक द्वारा प्रथम नामित आश्रित की योग्यता अनुमान्य नहीं पायी गयी। बाद में सेवानिवृत्ति के मात्र 15 दिन पहले दूसरे आश्रित को नामित किया गया है। अतः अस्वीकृत ”

3 Mr Dinu Kumar, learned counsel for the petitioner has submitted that the rejection is cryptic and without assigning any specific reason.

4 Learned State Counsel has submitted that the application for voluntary retirement and nomination in favour of the petitioner were required to be considered in terms of the Rules, as amended under Notification dated 05.03.2014. The application,



being time barred in terms of the Rules, no right could be claimed on basis of such application.

5 Vide Notification dated 05.03.2014, Bihar Chaukidari Cadre Rules, 2006 (for brevity, *2006 Rules*) have been amended. A proviso has been inserted after Rule 2 of the 2006 Rules which reads as follows:

“Proviso-

(a) An employee of the Chowkidar cadre may apply for voluntary retirement with effect from at least one month before the date of his superannuation and for appointment of a dependent nominated by him on the post of Chowkidar.

(b) The provisions regarding minimum and maximum age limit as determined by the General Administration Department from time to time shall be applicable to them.

(c) The benefit of this proviso shall not be admissible to the dependent of the person appointed after voluntary retirement.

(d) An employee of Chowkidar cadre desirous of voluntary retirement will have to submit his application to the District Magistrate of his posted district, at least one month before his desired date of retirement.”

6 It is clear from the proviso to Rule 5 (7) of 2006 Rules that it is open to an employee of the *Chowkidar* cadre to apply for voluntary retirement, which is to take effect at least one month before the date of his superannuation and to apply for appointment of a dependent nominated by him on the post of Chowkidar. An



employee of the *Chaukidar* cadre, desirous of voluntary retirement for appointment of dependent in his place is also required to submit his application to the District Magistrate, at least one month before the date on which he desires to retire.

7 “Dependent” has been defined in Rule 2 (7) of 2006 Rules to mean and include the wife, son, unmarried daughter and widow daughter-in-law who has not remarried.

8 The requirements, as per 2006 Rules, for making application is, thus, two folds:

“(i) The employee who satisfies the requisite age of 55 years and length of service 20 years as per 2006 Rules, is required to apply for voluntary retirement with effect from a date, at least one month before the date of his superannuation, and

(ii) Application for such voluntary retirement is to be made one month prior to the date with effect from which he seeks voluntary retirement. The application, thus, has to be made at least two months before the date of his superannuation, to retire with effect from a date which is required to be at least one month before the date of his superannuation.”



9 In the instant case, the admitted date of petitioner's father's superannuation is 30.09.2018. The petitioner's father, therefore, was required to make his application nominating the petitioner for appointment as *Chowkidar* while seeking voluntary retirement by an application, at least two months before the date of his superannuation, which would be at least on 31.07.2018, with a request to retire voluntarily with effect from a date one month prior to his superannuation, which would be 31.08.2018.

10 The admitted position, in the instant case, is that after withdrawing the application made in favour of the petitioner's elder brother, the petitioner's father had made an application in favour of the petitioner under the proviso to Rule 5 (7) of the 2014 Rules on 15.09.2018, i.e., 15 days before his date of superannuation. This application in the petitioner's favour was clearly time barred. The petitioner, therefore, could not derive any benefit from such time barred/belated application made by his father, which was also contrary to the provisions contained in the 2006 Rules.

11 The petitioner has not been able to make out a case for appointment, based on application dated 15.09.2018. The District Compassionate Appointment Committee has rightly



rejected the petitioner’s application at its Meeting dated 17.10.2019.

12 The writ application is devoid of merit, and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.07.2022
Transmission Date	NA

