

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7774 of 2021

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Md. Azad @ Md. Aazad son of Late Lal Mohammad resident of village -
Bangara Wazid, P.O. Chainpur Bangara, P.S. Maniyari, District- Muzaffarpur.
... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in-chief-cum-Special Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Superintending Engineer, Rural Works Department, Work Circle, Muzaffarpur.
5. The Executive Engineer, Rural Works Department, Works Division, Muzaffarpur East - 1.
6. The District Magistrate, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
For the Respondent/s : Mr. Kameshwar Prasad Gupta, GP 10

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

Date : 11-02-2022

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:

“(I) For issuance of an appropriate writ in the nature of **CERTIORARI** for quashing the letter no. 1013 dated 13.08.2020 issued under the signature of the Respondents No. 4, whereby and where under the Respondent No. 4 has been held that the petitioner is not entitled for his appointment on compassionate ground.

(II) For issuance of an appropriate writ in the nature of **MANDAMUS**, commanding and direction the Respondent Authorities for appointment of the petitioner on compassionate ground on the ground that the father of the



petitioner died in harness on 10.11.2010 during the course of discharge of his duty.

(III) For issuance of any other appropriate writ/writs, order/orders direction/directions for which the writ petitioner would be entitled under the facts and circumstances of the case.”

3. The petitioner’s father died on 10.11.2010 whereas the petitioner’s application for compassionate appointment is dated 04.03.2020. There is enormous delay and laches in submission of application for compassionate appointment. The reasons may be good enough in not filing application within a reasonable period of three years from the date of petitioner’s father death i.e. 10.11.2010. At the same time one cannot ignore the fact that there is delay and laches on the part of the petitioner. Apex Court time and again held that compassionate appointment is not a fundamental right and there is no vested right in favour of legal heirs of the deceased employee. Moreover, petitioner’s family survived from 10.11.2010 to the date on which petitioner submitted application.

4. At this stage, learned counsel for the petitioner submitted that petitioner’s mother stated to have submitted application in the year 2019. Even if the aforesaid date of application is taken into consideration. The present petition is not maintainable on the ground of delay and laches in the light of Apex Court decision in the case of *State of Jammu and Kashmir*



V/s. R.K.Zalpuri and others reported in **AIR 2016 SC 3006,**

Paragraph-20 which is 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. Apex Court in the following decisions examined the delay issue:

(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.**



6. In the light of the principles laid down in the cited decisions, writ petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

