

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7962 of 2021**

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Neelu Hembrom, D/o Rajmahal Hembrom, resident of village- Mahuatar,  
Police Station- Sundarpahari, Post Office- Ghatiari, District- Godda  
(Jharkhand)

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Home (Police) Department, Government of Bihar,  
Patna
3. The Director General of Police, Bihar, Patna
4. The Inspector General of Police (Welfare) Head Quarter, Bihar, Patna
5. The Deputy Inspector General (Personnel) Bihar, Patna
6. The Superintendent of Police, Rohtash

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate  
For the Respondent/s : Mr.Md.N.H.Khan, SC-1

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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 reliefs:-

“ (I) To quash the order dated 27.09.2019 of  
Respondent No. 6 as contained in Memo No. 4297 of  
Superintendent of Police, Rohtas and where under the  
petitioner’s application for compassionate appointment  
have been rejected on the ground of employment of  
petitioner’s elder brother in service.

(II) For giving direction to the concerned  
respondent authorities to give compassionate appointment  
to the petitioner for which he is legally entitled in the  
present facts and circumstances of the case.”

3. Undisputed facts are that petitioner’s father Late



Rajmahal Hembrom died on 03.08.2009. The petitioner is stated to have submitted application for compassionate appointment in the year 2009. Copy of the application is not made available, the petitioner's application for compassionate appointment was rejected on 27.09.2009 on the ground that petitioner's elder brother is already in service.

4. No doubt the reasons assigned for rejection of the petitioner's compassionate appointment in terms of the claims of the compassionate appointment at the same time one cannot ignore the delay and latches on the part of the petitioner's. Petitioner's father died on 03.08.2009. Thus, the petitioner's family survived for these many years.

5. Apex Court time and again held that compassionate appointment is not a fundamental right and the concerned person may not have a vested right to seek compassionate appointment.

6. In the light of these facts and circumstances even though reasoning assigned for petitioner's compassionate appointment, his elder brother was in service at the same time one cannot ignore delay and latches in respect of entertaining petition under Article 226 of the Constitution in the light of the decision of Apex Court decision in the case of ***State of Jammu and Kashmir v. 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 vs. 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 satisfactory resolved;
- (b) The petition reveals all material facts;
  - (c) The petitioner has any alternative or effective remedy for the resolution of the dispute;”

7. Honb’le Apex Court in the following decisions elaborately considered delay and latches:-

- “(I). Union of India and another vs. Shashank Goswami and others reported in [(2012)11 SCC 307].  
(II). Shreejith vs. Dy. Div. (Edwin) Kerala [(2012) 7 SCC 248].  
(III). Dhall Ram vs. Union of India [(1997) 11 SCC 201].”

8. In the light of these facts and circumstances, petitioner has not made out a case. Accordingly, the instant petition stands dismissed on the ground of delay and latches.

**(P. B. Bajanthri, J)**

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