

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.248 of 2021**

**In**  
**Civil Writ Jurisdiction Case No.2293 of 2021**

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Khushbu Kumari @ Khushbu Devi, W/o Mithilesh Paswan, D/o Late Ganeshi Paswan, resident of Village-Sahsaul, P.S.-Barhara (Kothi), District-Purnea.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administration, Bihar, Patna.
2. The District Magistrate, Purnea.
3. The Superintendent of Police, Purnea.
4. The Establishment Deputy Collector, Purnea.
5. In charge Officer, District General Section, Purnea.
6. The Circle Officer, Barhara Kothi, Purnea.
7. The Officer in charge of Barhara Kothi Police Station, District-Purnea.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr.Arvind Kumar Sinha, Advocate  
For the Respondent/s : Mr.Lalit Kishore (AG)

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**CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA**

**and**

**HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)**

**Date:24.02.2022**

1. The present appeal is directed against the order dated 01.03.2021 passed in CWJC No. 2293 of 2021, whereby and whereunder the prayer of the appellant for grant of compassionate appointment, has been rejected.

2. The brief facts of the case are that the deceased father of the appellant died in harness on 14.08.2010, whereafter the appellant is stated to have filed an application on 06.03.2014, in



the prescribed format for grant of compassionate appointment. It appears that the application of the appellant for grant of compassionate appointment was processed by the respondent authorities, however, the same was rejected by the District Compassionate Committee, headed by the District Magistrate, Purnea in its meeting held on 09.07.2020 on the ground that the appellant had neither passed the matriculation exam as on the date of application nor the appellant had passed the same within a period of five years of the death of her father which is the limitation period for the purposes of filing an application for grant of appointment on compassionate ground.

3. The learned counsel for the appellant has contended that the learned Single Judge has not appreciated the fact that the application of the appellant for grant of appointment on compassionate ground was filed as far back as in the year 2014, hence the appellant could not have been non-suited on the ground of lapse of more than 10 years since the death of the father of the appellant.

4. We have heard the learned counsel for the appellant and perused the material on record, from which we find that the appellant was neither qualified on the date of making the application for compassionate ground nor on the date when the



time prescribed for filing such application had expired. Admittedly the appellant had passed the Madhyama exam in the year 2018 i.e. after the period of limitation for filing application on compassionate ground had expired. Admittedly the appellant did not fulfil the aforesaid qualification either on the date of applying for appointment on compassionate ground or prior to bar of limitation for applying having set in, hence the appellant was definitely not entitled for appointment on compassionate ground, thus her case was rightly rejected. It is another aspect of the matter that the appellant is married daughter of the deceased employee.

5. At this juncture, we deem it appropriate to observe that if any application is entertained after a long delay, not only existing vacancies may be filled up by regular appointment but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependant of the deceased employees may crop up, hence what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserving a job for one of the dependants. In this connection, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Umesh Kumar Nagpal versus the State of Haryana and others***, reported in (1994) 4



**SCC 138**, paragraph no. 6 whereof is reproduced herein below:-

*“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”*

6. It would also be apt to refer to a judgment rendered by the Hon’ble Apex Court in the case of ***State of Gujarat vs. Chitraben***, (2015) reported in (2015) 14 SCC 574, paragraph no. 9 whereof is reproduced herein below:-

*“9. It is not a matter of dispute, that the respondent has possessed only the qualification of IVth standard, and does not possess the qualification of “Secondary School Certificate” examination, as has been postulated in Rule 3(ii) of the Notification dated 16-3-2005. It is therefore imperative for us to conclude, that the respondent was not qualified for appointment against Class IV posts, when her husband died in harness on 13-6-2006. When the respondent applied for appointment on compassionate grounds on 17-7-2006, it was necessary for her, to fulfil the qualification stipulated in the Notification dated 16-3-2005. Since, admittedly the*



*respondent did not fulfil the aforesaid qualification, she was not eligible to claim appointment on compassionate grounds, under the resolution dated 10-3-2000.”*

7. We, thus, in the facts and circumstances of the present case, do not find any reason to interfere with the order dated 01.03.2021 passed by the learned Single Judge in CWJC No. 2293 of 2021, hence the present appeal, being devoid of any merit, stands dismissed.

**(Rajan Gupta, J)**

**(Mohit Kumar Shah, J)**

S.Sb/-

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