

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8936 of 2021

Abhishek Kumar Son of Late Ram Pramod Rai, Residence of Village-Pandaul, P.S. Bathanaha, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, State of Bihar at Patna.
2. The State of Bihar through Secretary of Home (Special) Department, Government of Bihar, Patna.
3. The Director General cum Commandant General, of Home Guard, Bihar, Patna.
4. The Divisional Commandant, Home Guard, Muzaffarpur.
5. The Compassionate appointment Committee, Sitamarhi.
6. The District Magistrate, Sitamarhi.
7. The District Commandant, Home Guard, Sitamarhi.
8. The Inspector of Bihar Home Guard, Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Mishra
For the Respondent/s : Mr. Lalit Kishore (Ag)

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

Date : 16-02-2022

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:

“That this is an application on behalf of the r for issuance of writ/writs, order/orders for commanding the respondents authority, to set aside the decision taken by the District compassionate committee against the petitioner through SI.No.-1 of memo no. 16/Go, vide order dated 28/11/20 (Annexure – 10) which memo issued by the District officer,



Sitamarhi regarding the decision of the compensate appointment committee, Sitamarhi and further directed to the respondents to appointed to the petitioner as a Home Guard on the basis of compassionate ground as per the Government policy and as per Home Guard Rule, and/or issuance any other writ/writs, order/orders, or direction which is entitled as per rules and regulations.”

3. Petitioner’s father died on 10.05.2011. The petitioner is stated to have submitted application along with requisite documents in the year 2011 i.e. on 17.08.2011 whereas the present petition is presented in the year 2021. The explanation for undue delay and laches from 2011 to 2021 is not forthcoming from the pleadings. Matter relates to compassionate appointment and it is required to be provided to meet immediate harness in the family. Petitioner’s father died in the year 2011 and family of the petitioner survived for these many years.

4. The Apex Court time and again held that compassionate appointment is not a fundamental right and if there is belated claim, such claim cannot be entertained. Moreover Apex Court 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. Further, Apex Court in the following four decisions examined delay and laches in respect of claiming compassionate appointment. These are:

(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.

Underline Emphasized



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

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

