

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10275 of 2020

=====

Mahendra Paswan S/o Late Bhagwat Pswan, R/o Village - Rasanpur, Post - Rasanpur, P.S. Jalalpur, P.S. Varsiliganj, Dist. Nawada. PIN 805130

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, of Public Health Engineering Department, Government of Bihar, Patna.
2. The Executive Engineer, Public Health Department, Pramandal Karyalay-Gaya.
3. The Assistant Mechanical Engineer Public Health Department Awar pramandal Karyalay, Nawada.
4. The District Compassionate Committee, Nawada through the District Magistrate, Nawada.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ranjit Jha, Advocate
For the Respondent/s : Mr. Arvind Ujjwal, SC 4

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 10-01-2022

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 and order or direction in the nature of ‘Mandamus’ directing and commanding the concern respondent to appoint the petitioner on suitable post under Compassionate Appointment Scheme.
- ii. For further issuance of appropriate writ, order or direction in the nature of ‘Mandamus’ directing commanding the concern respondents to give the liberty for appointment of the Petitioner in suitable post as according his qualification.



iii. For issuance of any other relief or reliefs to which the petitioner found entitled to.”

3. Short question for consideration in the present petition is that petitioner’s father died on 12.04.1997 and his mother preferred an application for compassionate appointment in the year 1997. There was inaction on the part of the respondents in either accepting or rejecting the petitioner’s mother application. The petitioner’s mother had a cause of action in the year 1998 and she slept over the matter. Undisputedly, petitioner was aged about 5 years in the year 1997. As he was minor he could not make an application. As and when he attains major, he preferred an application before the official respondent in seeking compassionate appointment.

4. In the light of above facts and circumstances there is a delay and laches on the part of petitioner in seeking compassionate appointment. Apex Court time and again held that compassionate appointment is not a fundamental right. In the light of Apex Court decision to entertain the petition under Article 226 certain guidelines have been issued in the case of *State of Jammu and Kashmir V/s. 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*



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”

One of the principle laid down in the aforesaid decision is relating to delay and laches. Thus, the petitioner has not made out a case on the ground of delay and laches.

5. Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	14.01.2022
Transmission Date	

Underline Emphasized

