

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.420 of 2021

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Pooja Kumari Daughter of Late Lalan Singh Resident of Village- Barauli,
P.S.- Piro, District- Bhojpur.

... .. Petitioner/s

Versus

1. The Union of India Through the Secretary, Ministry of Home Affairs, New Delhi.
2. The Director General Border Security Force, New Delhi.
3. The Commandant Joining Center and School 22 Battalion, Border Security Force, Meru Hazaribagh, Jharkhand.
4. The Commandant Regional Head Quarter Border Security Force, Narainpur, Malda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.
For the Respondent/s : Mr.Dr. K. N. Singh (Asg)

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

Date : 13-01-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19
pandemic.

2. None appears for the petitioner.

3. In the instant petition, petitioner has sought for
following reliefs:

“That this writ application is being
filed on behalf of the petitioner above named
for issuance of a writ in the nature of
mandamus directing and commanding to the
respondents authority to consider of the case
of the petitioner on the post of Grade 3rd or
any other suitable post on compassionate
ground on account of death of his father, who
died during his service on 22.11.2011 leaving
behind his wife, two daughter from the post of



Constable in Border Security Force Grade-IVth and for any other appropriate writ/writs, direction/directions, order/orders as this Hon'ble Court thinks fit and proper in the facts and circumstances of the case."

3. Short question for consideration in the present petition is whether petitioner is entitled to compassionate appointment with reference to his father's death on 22.11.2011 while he was in service or not?

4. There is enormous delay and laches on the part of the petitioner in seeking compassionate appointment. Apex Court held that compassionate appointment is not a fundamental right.

Apex Court decision in the case of State of **Jammu and Kashmir V. R.K. Zalpuri** reported in **AIR 2016 SC 3006** at para 20 held as under:

"20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, 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 questions 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. One of the principle laid down in the aforesaid decision to entertain writ petition under Article 226 of the Constitution is that Court has to examine delay and laches.

6. Therefore, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

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