

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1442 of 2021

Abhishek Kumar Tanti Son of Late Rameshwar Tanti Resident of Village and Post Office- Dahiya, Police Station- Bhagwanpur, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary-cum- the Principal Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer Flood Control and Water Drainage Department, Gopalganj.
4. The Superintending Engineer, Flood Control and Water Drainage Circle, Gopalganj.
5. The Executive Engineer, Flood Control Division, Siwan.
6. The District Level Compassionate Appointment Committee through its Chairman, the District Magistrate, Siwan.
7. The District Magistrate, Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG 4

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

Date : 24-01-2022

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 in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the case of the petitioner for his appointment on compassionate ground in the light of the decision rendered by the Full Bench of this Hon’ble High Court in the case of Bihar State Electricity Board and Others vs. Chandrashekhar Paswan and Others and



analogous cases reported in 2019 (3) BLJ 347, by which, the dependent from the second wife of the deceased employee, are entitled for compassionate appointment.

(ii) For issuance of an appropriate writ in the nature of certiorari for quashing the memo no. 1565 dated 06.11.2012 issued under the signature of the District Magistrate cum the Chairman of the District Compassionate Appointment Committee, Siwan, by which, the claim of the petitioner for his compassionate appointment has been rejected only on the ground that he is the son from the second wife of the deceased employee, however, now the matter with regard to compassionate appointment to the son/daughter from the second wife of the deceased employee has been decided by the Full Bench of this Hon'ble High Court in Bihar State Electricity Board and Others vs. Chandrashekhar Paswan and Others and analogous cases reported in 2019 (3) BLJ 347 and if the said memo i.e. memo no. 1565 dated 06.11.2012 is coming in the way of compassionate appointment of the petitioner, the same may kindly be quashed or relaxed in the case of the petitioner.

(iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to appoint the petitioner on compassionate ground as he is entitled to be appointed on compassionate ground after death of his father, namely, late Rameshwar Tanti, who died in harness on 22.02.2006 while working as an Accounts Clerk in the Flood Control Division, Siwan and the petitioner being the son from his second wife and as there is no issue from the first wife of the deceased employee, the petitioner is only entitled to be appointed on compassionate ground in the light of decision of the Full Bench of this Hon'ble High Court in the case of Bihar State Electricity Board and Others vs. Chandrashekhar Paswan and Others and analogous cases reported in 2019 (3) BLJ 347.

(iv) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

3. The petitioner's father died on 22.02.2006. Petitioner is a son of second wife. It is stated that there were no issues from the first wife and the first wife has given consent for the second



marriage. The petitioner is stated to have submitted representation on 18.11.2006, which was rejected in the month of January, 2013. The petitioner has questioned the decision dated 06.11.2012 *vide* Memo No. 1565. In support of petitioner's grievance, he is relying on Full Bench decision of this Court in the case of ***Bihar State Electricity Board and Others vs. Chandrashekhar Paswan and Others*** reported in **2019 (3) BLJ 347**.

4. The object of compassionate appointment is to meet immediate harness in the family. Petitioner's family survived from 22.02.2006 to 06.11.2012 (memo No. 1565) and even thereafter till date. The petitioner seems to be a fence sitter. After decision rendered by this Court cited *supra*, he has opened his eyes in presenting the present petition. Moreover, Apex Court held that compassionate appointment is not a fundamental right. 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** laid down certain principles to entertain petition under Article 226 of the Constitution. One of the principle is delay and laches. Therefore, on the ground of delay and laches petitioner has not made out *prima facie* case to entertain the present petition. In the light of these facts and circumstances, petitioner is not entitled to relief sought in the present petition.



5. Accordingly, writ petition stands dismissed.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	29.01.2022
Transmission Date	

