

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3080 of 2021

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Jitendra Prasad S/o Late Kameshwar Prasad Sinha Adopted son of Late Kaushalaya Devi, W/o Late Gopal Lal, resident of Village- Madan Bigha, P.O.- Meera Bigha, P.S.- Chandauti, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Principal Secretary Health Department, Government of Bihar, Patna.
3. The Director in Chief Health Services, Bihar, Patna.
4. The District Magistrate Gaya.
5. The Civil Surgeon-cum- Chief Medical Officer Gaya.
6. The Establishment Deputy Collector Gaya.
7. The Medical Officer Primary Health Centre, Atri, P.S.- Chandauti, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar Sinha
For the Respondent/s	:	Mr. Ajay Behari Sinha, GA 8
		Mr. Surya Kant Kumar, AC to GA 8

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

Date : 03-03-2022

Heard learned counsel for the parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(I) To issue an appropriate order/s, direction/s including a writ preferably in the nature of CERTIORARI for quashing the order as contained in memo No. 203 Est. Gaya Dated 01-02-2013 passed by the District Magistrate, Gaya – cum – Chairman District Compassionate Appointment Committee, Gaya whereby and where under claim of the petitioner for compassionate appointment after the death of his adoptive mother has been rejected on the ground that the



petitioner cannot be treated foster son of late Kaushalya Devi on the basis of deed of Panchanama.

(II) To direct the respondent No. 4 the Chairman-cum-District Compassionate Appointment Committee, Gaya-cum-District Magistrate, Gaya to appoint the petitioner on compassionate ground taking into consideration that he is foster son of deceased employee Late Kaushalya Devi and adoption through deed of Panchanama is valid one.

(III) To direct the respondent No. 4 to appoint the petitioner on compassionate ground in place of his deceased adoptive mother as such he was dependent upon her and facing penury hardship.

(IV) To any other relief/reliefs which the petitioner may found entitled in the facts and circumstances of the case.”

3. Petitioner is stated to be adopted son of Late Kaushalya Devi. Late Kaushalya Devi died on 14.06.2006. Petitioner submitted application for compassionate appointment on 28.02.2010. Due to inaction petitioner has approached this Court in C.W.J.C. No. 255 of 2012. This Court directed the concerned committee to take a decision and it was disposed of on 06.01.2012. Thereafter, petitioner preferred M.J.C. No. 6331 of 2012 and it was decided on 27.08.2014 in the light of decision taken by the respondents on 01.02.2013. Thus, petitioner had a cause of action on 01.02.2013 in questioning the Memo No. 203 Gaya dated 01.02.2013. Petitioner has not questioned the order in C.W.J.C. No. 15699 of 2014 and it was decided on 18.08.2018. Thereafter, petitioner preferred L.P.A. No. 1818 of 2018 and it was decided on



03.12.2019. The following order was passed in L.P.A. No. 1818 of 2018:

“Through the present Letters Patent Appeal, the appellant has challenged the judgement and order dated 18.08.2018, passed by a learned single Judge in CWJC No. 15699 of 2014, rejecting the writ petitioner’s claim for compassionate appointment being adopted son of deceased employee.

After some argument, learned counsel for the appellant seeks permission to withdraw the present appeal with a liberty to challenge the order dated 01.02.2013, passed by the District Magistrate as Chairman of the District Compassionate Appointment Committee whereby the claim of the appellant has been rejected.

Permission is granted.

Accordingly, the present appeal stands disposed of as withdrawn with the liberty aforementioned.”

4. Reserving liberty to question the rejection of petitioner’s claim for compassionate appointment order dated 01.02.2013 does not enure to the benefit to contend that there is no delay and laches. He had cause of action as on 01.02.2013. The petitioner was not legally guided properly so as to challenge 01.02.2013 order at the appropriate time in particularly in C.W.J.C. No. 15699 of 2014 which resulted in delay and laches. That apart the Learned Single Judge while deciding C.W.J.C. No. 15699 of 2014 has specifically recorded that there is no challenge to the order dated 01.02.2013 in para 3. Apex Court time and again held that compassionate appointment is not a fundamental right.



Moreover, petitioner’s family survived from 14.06.2006, the date on which petitioner’s mother died, therefore, question of harness in the family at this belated stage is not warranted. In the following Apex Court decision, issue of compassionate appointment has been dealt in detail in respect of delay and laches.

- (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.

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

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	07.03.2022
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