

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18170 of 2021

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Bablu Kumar @ Babli Kumar S/o Late Sukhdev @ Late Sukhdeo Prasad
Yadav, R/o Ward No. 15, Village and P.O.- Badri Ballia, District - Begusarai,
Bihar - 851211.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Indian Railways, Rail Bhawan,
New Delhi- 110001.
2. The Secretary, Indian Railways, Rail Bhawan, New Delhi.- 110001.
3. The General Manager, East Central Railway, Hajipur, District - Vaishali
Bihar - 844101.
4. The Divisional Rail Manager (Karmik), East Central Railway, Sonpur,
District - Saran, Bihar- 841101.
5. Khakho Devi, W/o Late Sukhdev @ Late Sukhdeo Prasad Yadav, R/o Ward
No. 15, Village and P.O.- Badri Ballia, District - Begusarai, Bihar - 851211.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nikhil Kumar Agrawal, Advocate Ms. Aditi Hansaria, Advocate
For the Respondent/s	:	Mr. Dr. K.N. Singh, ASG. Mr. Manoj Kumar Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 27-07-2022

Heard learned counsels for the parties.

2. In the instant petition petitioner has assailed the order
dated 12.12.2018 passed in O.A. No. 050/00769/2018 connected
with M.A. No. 050/00496 of 2018.

3. Deceased- Sukhdev while he was in service in the
railways died on 07.07.2002. Son of the deceased employee- Babli
Kumar was minor in the year 2002. Therefore, as and when he
attained major, he submitted application for compassionate



appointment on 13.10.2006. The same was processed and offer of appointment was given on 14.08.2007. Before posting order was to be given, the official respondents found certain administrative difficulty. In the result, they have withdrawn the offer of appointment on 06.02.2008. The wife of the deceased Sukhdev and son filed Original Application No. 769 of 2018 along with M.A. No. 496 of 2018 before the Central Administrative Tribunal, Patna Bench, Patna in seeking a direction to give effect to the offer of appointment dated 14.08.2007. Further, he has sought for quashing of withdrawal of the offer of appointment dated 06.02.2008. The Tribunal proceeded to reject the O.A. as well as M.A. on 12.12.2008 on the ground of delay.

4. Thus, the petitioners aggrieved by the order of the Tribunal dated 12.12.2018 presented this petition.

5. Learned counsel for the petitioner vehemently contended that the respondents have entertained the petitioner's application for compassionate appointment and offer of appointment letter was issued on 14.08.2007. Thereafter, arbitrarily withdrawn the offer of appointment letter on 06.02.2008. The petitioners were not aware of the law that petitioners were required to question the validity of withdrawal of offer of appointment before the Central Administrative Tribunal. When they came to know that it is to be questioned before the



Central Administrative Tribunal, Patna Bench, Patna. Thus O.A. was filed in the year 2018. The petitioner Bablu Kumar @ Babli Kumar has an excellent case on merit for the reasons that he was subjected to all process of appointment on compassionate ground and offer of appointment letter was issued on 14.08.2007. Therefore, delay would not be hurdle. The object of providing compassionate appointment is to meet harness in the family. Therefore, the Tribunal has not appreciated delay. It is also submitted that if the litigant has a good case on merit in that event delay is required to be condoned.

6. Per contra, learned counsel for the respondent resisted the aforesaid contentions and submitted that there is enormous delay of ten years and few months in questioning the order dated 06.02.2008 in the year 2018 before the Tribunal. Therefore, there is no infirmity in the order of the Tribunal dated 12.12.2018.

7. Heard learned counsels for respective parties.

8. Undisputed facts are that petitioner's father late Sukhdev died on 07.07.2002 while he was in service. Petitioner Bablu Kumar was a minor as on 07.07.2002, the date on which deceased-employee died. He has attained major in the year 2006. Thus, he submitted application for compassionate appointment and it was processed and offer of appointment was issued on



14.08.2007 and it was withdrawn on 06.02.2008. Thus, the petitioner had cause of action in the year 2008.

9. In the light of provisions of the Administrative Tribunal Act, 1985 aggrieved person is required to invoke remedy under Section 19 of the Administrative Tribunal Act within a period of one year from the date of impugned order. Therefore, cause of action accrued to the petitioner up to 05.02.2009, whereas the Original Application No. 050/00769/2018 and M.A. No. 496 of 2018 was presented in the year 2018, i.e. almost nine years after cause of action accrued. The reasons for condonation of delay is that the petitioner was not aware of the law that he is required to invoke judicial forum. He is required to approach Central Administrative Tribunal, Patna Bench in so far as challenge to the order dated 06.02.2008. Ignorance of law cannot be ground to condone the delay of nine years.

10. Apex Court in the following four decisions examined the compassionate appointment issue:

(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.



One of the issue is relating to delay in claiming the compassionate appointment and it is not permissible. Further it is also taken note of that compassionate appointment is not a fundamental right so as to assert right to seek compassionate appointment.

11. In the light of these facts and circumstances, no interference is called for in respect of order dated 12.12.2018 passed in O.A. No. 050/00769/2018 read with M.A. No. 050/00496 of 2018 passed by the Central Administrative Tribunal.

12. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.08.2022
Transmission Date	

