

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19465 of 2021

Pravin Kumar Tiwary son of Late Kaushal Kishore Tiwary, resident of Village- Madhopur, P.O. Amma, P.S. Hathauri, Anchal- Katra, District Muzaffarpur, presently residing at near Children Academy, Balu Ghat, P.S. Muzaffarpur Town, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary Rural Works Department, Government of Bihar, Patna.
3. The Engineer-in- Chief, Rural Works Department, Government of Bihar, Patna.
4. The District Compassionate Committee, Muzaffarpur through the Chairman-cum District Magistrate, Muzaffarpur.
5. The Deputy Collector Establishment, Muzaffarpur, District Muzaffarpur.
6. The Superintending Engineer, Rural Works Department, Work Circle, Muzaffarpur.
7. The Executive Engineer, Rural Works Department, Work Division, Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Vijay Kumar Singh
For the Respondent/s : Mr. P.N. Shahi (Aag6)

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

Date : 06-01-2022

Heard learned counsel for the parties through virtual court proceedings.

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, commanding and directing the Respondent Authorities to produce on record the decision of the District Compassionate Committee, Muzaffarpur dated 29.06.2005 by which the petitioner’s claim for appointment on compassionate ground has been rejected on the ground that the elder son of the deceased government servant is in



government service, therefore, his claim for compassionate appointment is not permissible in view of the circulars of the Personnel and Administrative Reforms Department notwithstanding the fact that the elder son of the deceased employees is living separately since the life time of the deceased government servant and on production the same may be quashed by issuance of an appropriate writ in the nature of CERTIORARI.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent no.4 to pass an appropriate order on the application filed by the mother of the petitioner on 09.04.2008 in which the mother of the petitioner had categorically mentioned that her elder son is living separately since the life time with supporting documents since the said facts was not considered by the District Compassionate Committee in his decision dated 29.06.2005.

(III) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for appointment of the petitioner on compassionate ground keeping in view of the fact that the son of the deceased government servant, who is gainfully employed in government service is living separately since the life time of the deceased government servant and, therefore, even in view of the letter of the Personnel Administrative Reforms Department/ General Administration where “gainfully employed” has been defined, the petitioner is entitled to be appointed on compassionate ground as the other dependants of deceased government servant is not being maintained by the gainfully employed son.

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

3. There is enormous delay and laches on the part of the petitioner in presenting this petition. In respect of compassionate appointment Apex Court has held that there is no fundamental right vested with the person who is seeking compassionate appointment. The object is to meet immediate harness in the family on account of



death of a bread earner. The 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*** 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”

4. In the light of these facts and circumstances, the present petition stands dismissed on the ground of delay and laches.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	12.01.2022
Transmission Date	

Underline Emphasized

