

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Letters Patent Appeal No.1210 of 2019**

**In**  
**Civil Writ Jurisdiction Case No.16284 of 2019**

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Bhikhari Yadav S/o Late Dorik Yadav Resident of Village- Bariahi, Nipania,  
P.O. and P.S. Barauni, District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Chief Engineer National Highway Zone Bihar, Patna.
4. The Superintending Engineer National Highway Division, Muzaffarpur.
5. The Executive Engineer, National Highway Division, Muzaffarpur.
6. The Assistant Engineer, National Highway Section, Barauni.

... .. Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Pranav Kumar, Advocate  
For the Respondent/s : Mr.

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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 : 22-07-2022**

The matter is taken up through virtual court proceedings.

2. In the instant appeal, appellant has assailed the order of the learned Single Judge dated 22.08.2019 passed in C.W.J.C No. 16284 of 2019. The claim of the appellant is that he is entitled to compassionate appointment pursuant to his application dated 02.12.1996.



3. Learned counsel for the appellant submitted that appellant's father died while working as Labourer on 07.07.1983. Appellant's mother submitted application for compassionate appointment on 05.06.1985. There was inaction on the part of the respondents in either accepting or rejecting mother's application for compassionate appointment. When things stood thus in the year 1996 appellant attained major, therefore, he had submitted representation/application seeking compassionate appointment in the office of the Superintending Engineer, Muzaffarpur. In not considering the appellant's grievance relating to compassionate appointment, appellant filed C.W.J.C No. 16284 of 2019. It was dismissed on 22.08.2019 by the learned Single Judge on the ground of inordinate delay and laches for about 13 years that is from the date of appellant's application for compassionate appointment dated 02.12.1996 read with date of presentation of C.W.J.C No. 16284 of 2019.

4. Learned counsel for the appellant vehemently contended that the learned Single Judge has committed error in not appreciating the fact that appellant's mother submitted application for compassionate appointment on 05.06.1985 which was within the time limit stipulated under the compassionate appointment policy. Due to inaction on the part of the official respondent, the



appellant cannot be denied compassionate appointment. Therefore, the order of the learned Single Judge dated 22.08.2019 is liable to be set aside and appellant is entitled to seek direction to the official respondent to consider his name for compassionate appointment.

5. Heard learned counsel for the appellant.

6. Undisputed facts are that appellant's father while working as Labourer died on 07.07.1983. Appellant's mother submitted application for compassionate appointment on 05.06.1985. Since no orders were passed either accepting or rejecting mother's application for compassionate appointment. In the meanwhile, appellant has attained major and he had submitted representation/application seeking compassionate appointment on 02.12.1996. In the light of these facts and circumstances question of delay in seeking compassionate appointment is required to be examined or not?

7. Firstly, the appellant's mother who had submitted application for compassionate appointment on 05.06.1985, if it is not considered within a reasonable period of time of one or three years, she had statutory right to invoke jurisdiction of this Court in seeking a writ of Mandamus to consider her application for compassionate appointment. Such steps have not been taken by the appellant's mother. There is laches on the part of the mother in not



pursuing her right to claim compassionate appointment. Further, it is to be noted that appellant submitted representation/application for compassionate appointment on 02.12.1996 and he has also slept over the matter till the year 2019 and filed a writ petition. The learned Single Judge nodoubt has not taken note of factual aspect relating to appellant's mother application for compassionate appointment dated 05.06.1985. Even if mother's application and inaction on the part of the respondents and so also laches on her part is taken into consideration, delay in claiming compassionate appointment cannot be condoned for the reasons that there is inordinate delay of 13 years on behalf of the appellant herein.

8. The Apex Court in the following decisions elaborately discussed under what circumstances compassionate appointment could be claimed. It is also held that compassionate appointment is not a fundamental right so as to assert right to seek compassionate appointment.

**(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.**

9. In the light of above facts and circumstances read with the principles laid down by the Apex Court in the aforesaid judgments, the appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 22.08.2019 passed in C.W.J.C No. 16284 of 2019.

10. At this stage, it is necessary to take note of the object of providing compassionate appointment is to meet immediate harness or hardship in the family. In the present case appellant's family survived from the year 1983 to the year 2019. In such circumstances, question of providing compassionate appointment is not warranted at this belated stage, therefore, no interference is called for.

11. Accordingly, appeal stands dismissed.

**(P. B. Bajanthri, J)**

**( Rajiv Roy, J)**

GAURAV S./-

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