

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1481 of 2019

In
Civil Writ Jurisdiction Case No.4039 of 2016

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Anirudh Kumar Son of Late Sumant Prasad Singh Resident of Village
Amnour Harnaryan P.O.- Amnour P.S.- Amnour District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar Through Principal Secretary, Home Police Department,
Old Secretariat Govt. of Bihar, Patna.
2. The Principal Secretary Home Police Department, Old Secretariat,
Government of Bihar, Patna.
3. The Commissioner, Saran Division, Chhapra.
4. The District Magistrate -cum-Collector, Saran at Chapra.
5. The In-charge Deputy Collector, District General Administration Wing,
Saran, Chapra.
6. The Commandant General Bihar Home Guard Unit, Old secretariat Patna.
7. The Divisional Commandant Bihar Home Guard Unit, Old secretariat Patna.
8. The District Commandant Bihar Home Guard Unit , Saran Chapra.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Ved Prakash Srivastva, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar Verma, AAG 3
		Mr. Sanjay Kumar Ghosarvey, AC to AAG 3

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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 : 21-09-2022

Re: I.A. No. 1 of 2022

Heard I.A. No. 1 of 2022 for delay in filing L.P.A. For the
reasons stated in the application and affidavit, delay is condoned.

2. I.A. No. 1 of 2022 stands allowed.



3. In the present appeal, appellant has assailed the order of the learned Single Judge dated 09.05.2019 passed in C.W.J.C. No. 4039 of 2016. The appellant's father died on 10.03.2004 when he was in service. It is submitted that deceased employee died during the course of work. In this regard, application/representation was submitted for compassionate appointment in the month of June, 2004 followed by further representation in the year 2006. The respondents have rejected the appellant's claim on 08.02.2008, however, counsel for the appellant disputed the service of communication dated 08.02.2008 by which claim of the appellant was rejected for compassionate appointment and it was first time placed on record in C.W.J.C. No. 4039 of 2016 along with counter affidavit.

4. Having regard to the dates and events, it is evident that appellant has slept over the matter for almost one decade from the date of second representation in the year 2006. He has approached this Court in the year 2016. Nodoubt the concerned respondent is stated to have rejected the claim of the appellant and it was for the first time placed on record in the counter affidavit in C.W.J.C. No. 4039 of 2016. In that event, the appellant had an opportunity of challenging the communication dated 08.02.2008 by which his claim for compassionate appointment was rejected in the form of



supplementary affidavit/amendment of writ petition. Therefore, the aforesaid contention of the appellant's counsel cannot be appreciated in the absence of challenge to the communication dated 08.02.2008.

5. Having regard to the conduct of the appellant that he slept over the matter from the year 2006 to 2016, suffice to dismiss his claim for compassionate appointment. Apex Court in the following cases have taken note of under what circumstances compassionate appointment claim could be entertained or rejected:-

(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**.

6. One of the principle laid down in the aforesaid decision is that belated claim of the compassionate appointment cannot be entertained for the reasons that it is not a fundamental right of claimant. In the light of these facts and circumstances, no interference is called for in respect of the order dated 09.05.2019 passed in C.W.J.C. No. 4039 of 2016 of the learned Single Judge.



7. Accordingly, L.P.A. stands dismissed.

8. If the legal heirs of the deceased employee is entitled to any monetary compensation or monetary benefits with reference to service particulars of the deceased employee, the same shall be examined and disbursed, if already not paid, within a reasonable period of three months from the date of receipt of this order along with interest @ 6 % per annum in the light of the Apex Court decision in the case of *Vijay L. Mehrotra vs. State of Uttar Pradesh and others* reported in (2001) 9 SCC 687.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	26.09.2022
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