

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4275 of 2022

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Chandrabhushan Pandit Son of Jitwahan Pandit, Resident of Village-
Sadabah, P.O.-Sadabah, P.S.-Dulhin Bazar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secrerary, Home Department,
Government of Bihar, Patna.
2. The Assistant Jail Inspector General, Prison and Development Service
Inspectorate, Bihar, Patna.
3. The Superintendent, Divisional Jail, Ara.
4. The District Magistrate, Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Nikesh, Advocate
For the State	:	Mr. Fazle Karim, AC to SC- 1

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 15-09-2023

1. Heard learned counsel for the petitioner and
learned counsel for the State.

2. The petitioner's mother was employed as
'Wardress'. She died while in harness on 25-01-2010. Petitioner
has made an application for compassionate appointment on 26-
11-2018. Petitioner's application was submitted only after
obtaining succession certificate dated 27-06-2018 (Annexure-



4), since, there was a dispute between the petitioner and his sibling with respect to the retiral dues of the deceased. These facts are not in dispute.

3. It is submitted by learned counsel for the petitioner that till such time he obtained his succession certificate, his claim was not likely to be considered, in view of the dispute being raised by his sibling, which dispute was acknowledged by the State-Authorities. In the circumstances, the application made on 26-11-2018 is not because of any lapse on the part of the petitioner, but due to delay in obtaining his succession certificate. The petitioner's claim, thus may not be rejected for being submitted beyond five year period, specified in the scheme of compassionate appointment, under which he is claiming the benefit.

4. Learned counsel is not in position to show that there is any such provision in the scheme providing any scope for enlargement of time in cases where succession certificate are required due to dispute between rival claimants.

5. The other aspect of the matter is that requisite educational qualification for the benefit claimed has been amended by a notification dated 12-12-2012 issued by the State of Bihar in the General Administration Department. The



minimum educational qualification has been enhanced as 10th (Matriculate pass) or equivalent, in place of 8th pass. The rejection of petitioner's claim is, primarily founded on the fact that he did not fulfill the requisite educational qualification.

6. Learned counsel for the petitioner further submits that petitioner's claim has arisen in January, 2010, much before the amendment was brought about, and therefore, the said amendment would not be applicable, so as to disentitle the petitioner. The submission has to be viewed, keeping in background, the decision of the General Administration Department, dated 02-02-2015, which was issued in view of the several similar claims being made by the expecting beneficiaries/dependents of Government servants, who died prior to amendment.

7. As per the circular, the provisions of which are not in dispute or under challenge, the Government has taken uniform decision that claims submitted up till 11-12-2012, only are to be considered as per earlier requisite qualification. The petitioner's claim, admittedly, is of 26-11-2018. Claim of the petitioner, therefore, is not only barred by the time specified in the scheme for claiming compassionate appointment, but also for lack of minimum educational qualification.



8. Writ petition is thus devoid of merit, and is dismissed.

(Madhuresh Prasad, J)

Raj kishore/-

AFR/NAFR	NAFR
CAV DATE	N/A
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