

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12973 of 2015

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Madan Ram son of Late Ramdeo Ram, Resident of Ambedkar Nagar,
Jehanabad, P.S.- Jehanabad in the district of Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Health, Government of Bihar, Patna
3. The District Compassionate Appointment Committee through its Chairman-cum-District Magistrate, Gaya
4. The District Magistrate-cum-Collector, Gaya
5. The Civil Surgeon-cum-Chief Medical Officer, Gaya
6. The Civil Surgeon-cum-Chief Medical Officer, Jehanabad

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate
For the Respondent/s : Mr. Dhurjati Kumar Prasad, GP-14

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 04-10-2023

The present writ petition has been filed for directing the Civil Surgeon cum Chief Medical Officer, Gaya to appoint the petitioner on compassionate ground.

2. The brief facts of the case are that the father of the petitioner died in harness on 19.03.1985 while he was posted as Fourth Grade employee (Sweeper) at the Sub-Divisional Hospital, Jehanabad. The petitioner is stated to have applied for compassionate employment after the death of



his father, whereupon his case was placed before the District Compassionate Appointment Committee, Gaya in its meeting held on 21.01.1986 and the Committee had then recommended the name of the petitioner for appointment on compassionate ground, however, it is the case of the petitioner that till date he has not been appointed on compassionate ground.

3. *Per contra*, the learned counsel appearing for the respondent-State has submitted, by referring to the counter affidavit filed in the present case that it is apparent from the documents submitted by the petitioner that his date of birth is 12.09.1976, hence he was a minor as on the date of recommendation made by the District Compassionate Appointment Committee, Gaya for appointment on compassionate ground. It is also apparent that the petitioner was aged about nine years an odd at the time when his case for compassionate employment was recommended in the year 1986 and that apart even as on the date of expiry of the period prescribed for filing an



application for compassionate employment i.e. five years from the date of death of the deceased employee, the petitioner had not attained majority, hence his case was not considered for the purposes of compassionate employment.

4. I have heard the learned counsel for the parties and perused the materials on record. This Court finds from the records that the petitioner was minor at the time his name was recommended for appointment on compassionate ground by the District Compassionate Employment Committee, Gaya and in fact he also did not attain majority within the period of limitation of five years from the death of the deceased employee, prescribed for filing application for appointment on compassionate ground, hence there is no merit in the case of the petitioner. Even otherwise, if the age disclosed in the affidavit forming part of the present writ petition of the petitioner is perused, he has declared his age to be 40 years as on the date of filing of the present writ petition i.e. as on 27.07.2015, which means that the year of birth of



the petitioner is 1985, thus he was about 10 years of age when his case was recommended for grant of compassionate appointment, thus, he being a minor at that moment of time, could not be granted compassionate employment.

5. Yet another aspect of the matter is that if any application is entertained after a long delay, not only existing vacancies may be filled up by regular appointment, but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependent of the deceased employees may crop up, hence, what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserve a job for one of the dependents. In the present case, the death of the father of the petitioner had taken place in the year, 1985, hence, now after a lapse about 38 years, the very object of the compassionate employment scheme would be violated, in case compassionate employment is directed to be offered to the petitioner, inasmuch as the object of the compassionate employment



scheme is to enable the family to get over the financial crisis, which it faces at the time of the death of the sole breadwinner, thus, the case of the petitioner for grant of compassionate employment merits no consideration. It would be apt to refer to a judgment, rendered by the Hon'ble Apex Court in the case of **Umesh Kumar Nagpal vs. State of Haryana & Others**, reported in **(1994) 4 SCC 138**, paragraph no. 6 whereof is reproduced herein below:-

"6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered after the lapse of time and after the crisis is over."

6. Having regard to the facts and



circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	18.10.2023
Transmission Date	N/A

