

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 17195 of 2015

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Gauri Shankar Sah Son of Late Harihar Sah, Meter Reader, Resident of
Village- Malkaunia, P.S.- Motihari Mufassil, District- East Champaran.

... .. Petitioner/s

Versus

1. The Bihar State Power Holding Company Limited through the Chairman cum Managing Director, Vidyut Bhawan, Bailey Road, Patna
2. The Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road,
3. The Deputy General Manager HR, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Baily Road, Patna
4. The General Manager cum Chief Engineer, Tirhut Electric Supply Area, NBPDC, Muzaffarpur.
5. The Deputy Personnel Officer, Tirhut Electric Supply Area, NBPDC, Muzaffarpur.
6. The Electric Superintending Engineer, Electric Supply Circle, NBPDC, Motihari East Champaran.
7. The Electrical Executive Engineer, Electric Supply Division, NBPDC, Motihari East Champaran.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Bajarangi Lal, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 15-09-2023

1. The present writ petition has been filed seeking the following relief:-

“1. That this application is being filed for quashing of order contained in Memo



No.4899 dated 07.12.2010 issued by General Manager cum Chief Engineer, Tirhut Electric Supply Area, Muzaffarpur whereby and whereunder the petition filed by the petitioner for grant of appointment on compassionate ground has been rejected. And further for a direction upon the respondents to grant appointment to the petitioner on compassionate ground as father of petitioner died in harness during service period from the post of Meter Reader while working in Electric Supply Division, Motihari under erstwhile Bihar State Electricity Board [now North Bihar Power Distribution Company Limited].”

2. Admittedly, the case of the petitioner for grant of compassionate employment is time barred in view of the fact that his father died in harness on 06.06.1982, however, he applied for grant of compassionate employment belatedly after 27 years in the year 2009, after attaining the age of majority, whereas the prescribed period of limitation for filing application for appointment on compassionate ground is five years.



3. In any view of the matter, now 41 years have lapsed since the date of death of the father of the petitioner, hence at this juncture, if any application of the petitioner is entertained after such 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 dependant of the deceased employees may crop up, thus what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserving a job for one of the dependants. In this connection, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of Umesh Kumar Nagpal versus the State of Haryana and 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 whatever the lapse of time and after the crisis is over.”

4. At this juncture, it would be apt to refer to yet another judgment rendered by the Hon’ble Apex Court in the case of Central Coalfields Limited through its Chairman and Managing Director and Others Versus Parden Oraon, reported in 2021 SCC OnLine SC 299, paragraph no. 8 and 9 whereof are reproduced herein below:-

“8. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that the job is offered to the



eligible member of the family¹. It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.

9. We are in agreement with the High Court that the reasons given by the employer for denying compassionate appointment to the Respondent's son are not justified. There is no bar in the National Coal Wage Agreement for appointment of the son of an employee who has suffered civil death. In addition, merely because the respondent is working, her son cannot be denied compassionate appointment as per the relevant clauses of the National Coal Wage Agreement. However, the Respondent's husband is missing since 2002. Two sons of the Respondent who are the dependents of her husband as per the records, are also shown as dependents of the



Respondent. It cannot be said that there was any financial crisis created immediately after Respondent's husband went missing in view of the employment of the Respondent. Though the reasons given by the employer to deny the relief sought by the Respondent are not sustainable, we are convinced that the Respondent's son cannot be given compassionate appointment at this point of time. The application for compassionate appointment of the son was filed by the Respondent in the year 2013 which is more than 10 years after the Respondent's husband had gone missing. As the object of compassionate appointment is for providing immediate succour to the family of a deceased employee, the Respondent's son is not entitled for compassionate appointment after the passage of a long period of time since his father has gone missing.

5. Therefore, considering the object of the scheme of compassionate employment, which is to enable the bereaved family to tide over the immediate financial crisis, which it faces on account of sudden death of the breadwinner, no relief can be granted to the petitioner at this



juncture, inasmuch as compassionate employment is neither a vested right nor an alternate mode of employment.

6. Having regard to the facts and circumstances of the case, 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
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