

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13880 of 2019

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Surbhi Soni, D/o late Chandra Shekhar Choudhary, Wife of Shri Jwela Kumar Ranjan, Resident of Village- Lagma, P.S. Sakatpur, Prakhanda- Taradih, District- Darbhanga, Presently Residing at Village- Madhepur(Paschim), P.S. Madhepur, District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Animal Husbandry and Fisheries, Government of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
4. The Director, Department of Animal Husbandry and Fisheries, Bihar, Patna.
5. The Commissioner, Darbhanga Division, Darbhanga.
6. The District Animal Husbandry Officer, Madhubani.
7. The Sub-Divisional Animal Husbandry Officer, Jhanjharpur, District-Madhubani.
8. The District Compassionate Appointment Committee, Madhubani through its Chairman, Namley District Magistrate, Madhubani.
9. The Secretary, District Compassionate Appointment Committee, Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amrit Abhijat, Advocate
For the Respondent/s : Mr. P. K. Shahi, A.G.

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 12-12-2023

The married daughter of a deceased employee is before this court challenging Annexures-4 and 5 which restricted the benefit under the compassionate appointment scheme to the wife, the son, unmarried or married and an



unmarried daughter. The petitioner's contention is that this discriminates against the female sex, which is not permissible under Articles 15 and 16 of the Constitution of India. The learned counsel for the petitioner has also produced two judgments of a Single Bench, one of the High Court of Jharkhand in ***WP (S) No.2818 of 2017 titled Kalyani Kumari Mishra v. The State of Jharkhand;*** decided on 20.11.2017 and the other of the High Court of Judicature at Madras in ***Writ Petition No.18660 of 2013 titled Krishnaveni v. Superintending Engineer Kadamparai Electricity Generation Block Minparai;*** decided on 10.07.2013, both setting at naught similar notifications issued in that State.

2. We are not looking into the judgments of the High Court of Jharkhand in ***Kalyani Kumari Mishra (supra)*** or High Court of Judicature at Madras in ***Krishnaveni (supra)***, especially since they have only a persuasive value insofar as this Court is concerned. We also say this because the petitioner has no valid claim to assert for compassionate appointment.

3. On facts, it has to be noticed that the petitioner's father died on 25.06.2008 and her mother, the wife of the deceased employee, made an application on 28.10.2009. This was rejected on 27.08.2012 as she was over-aged and then the



son applied on 28.12.2012. When the son's application was pending, the learned counsel submits that the family decided that the daughter, i.e. the petitioner, who is estranged from her husband would look after the family.

4. In fact, compassionate appointment, as has been held by the Hon'ble Supreme Court, works against the equality clause as enshrined in the Constitution. The benefit is conferred on the dependents of a deceased employee only to see that the family is not pushed to penury. For the said benefit to be effective, it has to be granted immediately on the death of the employee and also the rationale behind it is the sustenance of the family which may be pushed to penury by reason of the death of the only bread winner.

5. The petitioner has made an application on 20.03.2017 allegedly on the decision taken by the family that she will support the family; since she is estranged from her husband. Hence, the petitioner's application is not made due to the death of her father which could lead to penury of the family, but the estrangement of the petitioner from her husband. This is not a reason for granting compassionate appointment. We also see that there is considerable delay in the petitioner making an application. In such circumstances, we refuse to consider the



issue of unconstitutionality, as raised in the above writ petition which is filed by a person without a valid claim for reason of it being grossly delayed.

6. In the facts and circumstances of the case, we dismiss the writ petition.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sunil/-

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Uploading Date	13.12.2023
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