

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.434 of 2022

In
Civil Writ Jurisdiction Case No.6772 of 2019

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Abhishek Kumar, Son of Late Gopal Prasad, Resident of Village- Saichak,
P.S.- Anishabad, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Chairman, State Electricity Board, now South Bihar Power Distribution Co. Ltd, Vidyut Bhavan, Baily Road, Patna.
2. Managing Director, South Bihar Power Distribution Co. Ltd, Vidyut Bhavan, Baily Road, Patna.
3. Senior Manager, South Bihar Power Distribution Co. Ltd, Vidyut Bhavan, Baily Road, Patna.
4. Chief Engineer, Patna Electricity Supply Undertaking, Patna.
5. Superintending Engineer, Patna Electricity Supply Undertaking, Patna.
6. Executive Engineer, Patna Electric Supply Unit, Gardanibagh, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Shashank Chandra, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Senior Advocate
Mr Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 06-09-2023

The issue that arises in the aforesaid appeal is the entitlement of the appellant, the son of an employee who died in harness, for compassionate appointment.

2. The appellant was aggrieved with the order dated 14.06.2018 passed by the 2nd respondent, whereby his claim for compassionate appointment stood rejected. The learned Single



Judge found that though the prayer requests a sympathetic consideration, all the same it has to be tested on the anvil of the law enunciated regarding compassionate appointment; upon which it fails to pass muster. We perfectly agree with the finding of the learned Single Judge.

3. The appellant's father died while he was serving the 2nd respondent on 02.08.2000 and sadly, his mother too had predeceased his father. The appellant, as well as his other siblings, were minors and the learned counsel for the appellant informed us that they were being looked after by an uncle. The elder sister of the appellant made an application in the year 2010, after about 10 years, when she had attained majority. In fact, the specific rule pointed out by the learned counsel for the appellant makes it mandatory to make an application within five years of the death, without reference to the date of attainment of majority of the dependant children. The rule also is in consonance with the trite law on the subject of compassionate appointments; which declares it to be a measure, contrary to the rule of equality, but however, enforced only in the context of providing succour to a family, which may be thrown to the streets for reason only of the sole bread winner passing away. An inordinate delay in making an application, even on grounds of



the children being minors can only lead to a conclusion that the family had survived despite the death of a member, who was employed. The rule of equality then kicks in and renders an appointment based only on sympathetic consideration to be illegal, arbitrary and in violation of the larger public interest.

4. The application made by the sister of the appellant in 2010 was withdrawn when the prospect of marriage loomed large for the young woman. The appellant came into the picture much later in the year 2014 and he approached the respondent-authorities, with full backing from his sister, who withdrew her request to be appointed on compassionate grounds. A writ petition was filed wherein there was a direction to consider the matter and to take a final decision within three months. The 2nd respondent considered the same and rejected the claim finding that the death had taken place about 19 years ago and that the scheme for compassionate appointment was framed only for the purpose of providing immediate succour to a family, which is placed in distress due to the death of the bread winner. The learned Single Judge approving the said findings held that a compassionate ground cannot be an alternate source of employment and the appellant, a young man, should strive to stand on his own feet without banking on the death of his father



which occurred almost two decades back.

5. We find absolutely no reason to entertain the appeal and we dismiss the same leaving the parties to suffer their respective costs.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sunil/-

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Uploading Date	08.09.2023
Transmission Date	

