

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1541 of 2019

In

Civil Writ Jurisdiction Case No.17983 of 2014

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Baidya Nath Karn, Son of Late Kamla Kant Lal, resident of at Village-
Dherukh, P.O.- Benipur, P.S.- Bahera, District- Darbhanga.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary Water Resources Department, Government of Bihar, Sichai Bhawan, Old Secretariat, Patna.
2. The Deputy Secretary, Department, Government of Bihar, Sichai Bhawan, Old Secretariat, Patna.
3. Special Land Acquisition Officer, Sone Flood Safety Planning, Anisabad, Patna.
4. Special Land Acquisition Patna Officer, Sone Project Arah.
5. The director, Land Acquisition and Rehabilitation- cum- Department Secretary, Patna.
6. The District Magistrate, Arah - Cum - Chairman, District Compassionate Appointment Committee, Bhojpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Kumar Kaushik, Advocate

For the Respondent/s : Mr.Anjani Kumar, AAG 4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 24-07-2023

The present appeal arises from an order declining interference to the order of the Government rejecting application for compassionate appointment.

2. The brief facts to be noticed are that the



father of the appellant-petitioner was working as a Surveyor/Amin attached to the office of the Special Land Acquisition Officer. He died while in service on 27.01.1995 and his wife, who is mother of the present appellant, applied in May, 1995 itself for appointment on compassionate ground. The respondents did not consider the said application and kept it pending. The son, upon attaining the age of majority in 2010, applied for consideration and grant of compassionate appointment. Again nothing was done and the writ petition was filed in the year 2014.

3. The learned Single Judge found that the application, now under consideration, was filed after 19 years from the death of the employee. The reliance placed on **Lakshmi Kumari vs. State of Bihar; 2019(3) PLJR 379** was found to be not applicable since the facts there were distinct and different. It was found that the mother of the appellant had not agitated her cause in time and by the time the application of the petitioner came to be filed; there occurred considerable expiry of time from the death of the employee. **Umesh Kumar Nagpal vs. The State of Haryana & Ors.; (1994) 4 SCC 138** and the **State of Himachal Pradesh vs. Shashi Kumar; (2019) 3 SCC 653** were



specifically referred to while rejecting the writ petition.

4. We are in perfect agreement with the learned Single Judge that the claim of the petitioner's mother, though not considered for a long period, does not survive for consideration at this distance of time. The petitioner's mother after filing the application did not at all try to get it considered by a legal forum.

5. Learned counsel for the appellant submits that appellant's mother had made many representations to the Government. Insofar as unrepresented memorials are concerned, the Hon'ble Supreme Court has held that this cannot be a proper explanation for delay for approaching a court of law. A diligent person should take up the cause before a court of law within a reasonable period.

6. When the mother's claim does not survive then there arises the question of whether the son's claim can arise after so many years. As has been found by the learned Single Judge, in **Lakshmi Kumari (supra)**, the mother's application, filed a little after one year from the death, was kept pending for six years and rejected on the ground of her being over aged. Then the mother applied for her elder daughter in the year 2010, which stood rejected in the year



2018.

7. We agree with the learned Single Judge that there are distinct facts coming forth in the instant case. In **Umesh Kumar Nagpal** (supra), it was held that compassionate employment cannot be granted after a lapse of reasonable period, which should be specified in the rules. The consideration for compassionate employment is in violation of Article 16 of the Constitution of India and has to be resorted to sparingly and only to ensure that the family who lost the only bread winner is not thrown to the streets after the death of the employee. The minimum requirement is to keep the wolf from the door of the family, on the death of the only bread winner, which is the principle behind compassionate appointments.

8. The very fact that the mother after filing an application did not pursue it appropriately for almost 15 years; till the son attained majority, reveals that there was no grave situation of the family being thrown to the streets on the death of the employee. In any event, the mother's claim has not been agitated and it is the son's claim, which is now sought to be agitated. However, the fact that the family survived all these years and the mother did not seek for



consideration of her application appropriately before a Court stands against such compassionate appointment being granted after expiry of many many years from the date of death of the employee.

9. We find no reason to interfere with the judgment of the learned Single Judge and reject the appeal.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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