

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 3438 of 2024

=====

Santosh Kumar Mehta S/o Baidhnath Mehta, Resident of Village-Jethian,
P.S.-Atri, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through its Secretary, General Administration Department, Patna.
2. The Collector, Nalanda.
3. The Sub Divisional Officer, Nalanda.
4. The Deputy Collector (Establishment), Nalanda.

... .. Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. Dharmendra Kumar Sinha, Adv.

For the Respondent/s : Mr. Rakesh Kumar Ranjan, AC to GA-5

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 14-03-2024

The present writ petition has been filed for quashing the letter dated 02.09.2021, issued by the Deputy Collector (Establishment), Nalanda, whereby and whereunder the application, filed by the petitioner for grant of compassionate employment, has been rejected.

2. The brief facts of the case, according to the petitioner, are that the father of the petitioner died in harness on 22.12.1987, while working as Marketing Officer at the Sub-Divisional Office, Hilsa. It is submitted that at the time of death of the father of the petitioner, the petitioner was minor, hence, the



application, filed by the petitioner for grant of appointment on compassionate ground, was not considered. Thereafter, the petitioner had filed a writ petition bearing CWJC No. 7898 of 1994, however, the same was dismissed, by an order dated 25.07.1995, on the ground that appointment on compassionate ground can only be granted within a reasonable time of death of the bread earner, otherwise no purpose would be solved. Nonetheless, it is submitted that the case of the petitioner was again considered for appointment on compassionate ground, however, the same was rejected, vide memo dated 07.12.2018, issued by the District Magistrate, Nalanda, containing the minutes of meeting dated 07.12.2018 of the District Compassionate Appointment Committee, Nalanda at Biharsharif, wherein it has been stated that the Government servant had died on 22.12.1987, whereafter the case of the petitioner for compassionate employment was considered on 23.02.1988, however, since the petitioner was a minor, his case was rejected and then the Sub-Divisional Officer, Hilsa, after 26 years, has again recommended the case of the petitioner, wherein the details of the family members of the deceased has been stated, however, the same does not mention about any other family member of the deceased, whereas the certificate,



showing family details of the deceased, issued by the Circle Officer, Atri, Gaya, dated 26.4.1988, shows that the deceased is survived by wife and two sons, hence, there is contradiction in the documents, submitted by the petitioner, thus, it has been decided to reject his case. Thereafter, the District Magistrate, Nalanda at Biharshariff, had also rejected the case of the petitioner, vide order dated 02.09.2021.

3. The learned counsel for the petitioner has submitted that since now the petitioner has attained majority, he is entitled for compassionate employment.

4. Per contra, the learned counsel for the Respondent-Corporation has submitted that firstly, the present writ petition is barred by the principles of res judicata, inasmuch as the petitioner had earlier approached this Court, by filing a writ petition bearing CWJC No. 7898 of 1994, for same and similar relief, however the same had stood dismissed, by an order dated 25.07.1995. It is further submitted that in any view of the matter, now after a lapse of about 37 years of the death of the government employee, no relief can be granted to the petitioner, inasmuch as the object of providing compassionate employment is to enable the family to tide over the financial crisis, which it faces at the time of death of the sole bread earner, however,



now, at this juncture, the compassionate employment cannot be claimed or offered after lapse of considerable time.

5. I have heard the Ld. counsel for the parties and perused the materials on record, from which this Court finds that the present writ petition is not maintainable, inasmuch as the same is barred by the principles of res judicata. Yet another aspect of the matter is that if any application for compassionate employment is entertained after a long delay, the same may create impediment in cases of similar nature 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 dependent. In the present case, the death of the father of the petitioner took place in the year, 1987, hence, now after a lapse of about 37 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 tide over the immediate financial crisis, which it faces at the time of the death of the government employee and not to reserving a job for one of the dependants, thus, the



case of the petitioner for appointment on compassionate ground 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 & Ors.***, reported in (1994) 4 SCC 138, para 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 foregoing reasons, I do not find any merit in the present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	1.4.2024
Transmission Date	NA

