

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.119 of 2022

In

Civil Writ Jurisdiction Case No.8864 of 2021

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Shiv Chandra @ Shiv Chandra Jha, Son of Late Binod Kumar Jha @ Binod Chandra Jha, Resident of Village- Sohrai, P.S.- Sakri, District- Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar through Registrar Co-Operative Department, Government of Bihar, Patna.
2. The Director, Co-Operative Department, Government of Bihar, Patna.
3. The Chairman, Rahika, Central Co-Operative Bank Ltd., District-Madhubani.
4. The District Magistrate, Madhubani, District-Madhubani.
5. The Additional Collector, Establishment, Madhubani, District-Madhubani.
6. The Managing Director, Rahika Central Co-Operative Bank Ltd., Madhubani, District-Madhubani.
7. The Branch Manager, Pandaul, Rahika, Central Co-Operative Bank Ltd., Madhubani, District-Madhubani.
8. The Branch Manager, Rahika, Central Co-Operative Bank Ltd., Madhubani, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Appellant/s	: Mr. Subhash Kumar Jha, Advocate
For the State	: Mr. S.D. Yadav, AAG-9
For the Resp. Nos. 3,6,7 and 8 (Bank)	: Mr. Vikash Kumar Jha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 11-09-2024

1. Heard learned counsel for the appellant and learned



counsel for the respondents.

2. The instant appeal has been preferred against the order dated 16.2.2022 passed in CWJC no.8864 of 2021, whereby the learned Single Judge was pleased to dismiss the writ application filed by the petitioner for appointment on compassionate ground on the ground of delay and laches.

3. The case of the writ petitioner-appellant in brief is that his father having died on 4.12.2010 while in service of Rahika Central Cooperative Bank Ltd., Ghoghardiha Branch, District- Madhubani (hereinafter referred to as 'the Bank'), the appellant being eligible in all respects filed an application on 8.2.2011 for appointment on compassionate ground. In the meantime, he was appointed on contract basis on 25.8.2011 and continued to work in the said capacity till 31.12.2016. He filed several representations and once again worked on contract basis at the Pandaul Branch of the Bank from 19.1.2017 to 31.8.2018. Not having been appointed on compassionate ground, it is the case of the appellant that he continued to file representations, the last being on 13.5.2020 addressed to the District Magistrate, Madhubani. In spite of the Additional Collector (Establishment), Madhubani by his letter dated 17.6.2020 asking the Branch Manager of the Bank at Madhubani to furnish a report with



respect to the appellant, the appellant not having been appointed, filed the writ application for directing the respondent authorities to appoint him on compassionate ground in place of his deceased father.

4. The learned Single Judge by his order dated 16.2.2022 was pleased to dismiss CWJC no.8864 of 2021 on the ground of delay and laches. It is against this order that the instant appeal has been preferred.

5. Learned counsel for the appellant submitted that the learned Single Judge failed to take into consideration that the delay had been fully explained in so far as the appellant was working on contract basis at different branches of the Bank from 25.8.2011 to 31.12.2016 and again from 19.1.2017 to 31.8.2018. It is thus submitted that the order of the learned Single Judge be set aside and he be appointed on compassionate ground.

6. Having heard learned counsel for the parties and having perused the material on record, the relevant facts in brief are that the father of the appellant died on 4.12.2010 while in service of the Bank, on which he filed an application for appointment on compassionate ground on 8.2.2011. It is the case of the appellant that inspite of having filed several representations, the last being on 13.5.2020 addressed to the



District Magistrate, Madhubani, not having got any relief, he moved this Court by filing CWJC no.8864 of 2021.

7. At this stage, it would be relevant to take into consideration the decisions of the Hon'ble Supreme Court in cases of compassionate appointment as also delay and laches.

8. In the case of **Umesh Kumar Nagpal vs. State of Haryana & Ors.; (1994) 4 SCC 138**, the Hon'ble Supreme Court held that the whole object granting compassionate appointment is to enable the family of the deceased employee to tied over the sudden crisis. 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 a job is offered to the eligible member of the family. For these reasons, compassionate appointment cannot be claimed and offered after the lapse of time which must be specified in the rules.

9. In the case of **Dhalla Ram vs. Union of India & Ors.; (1997) 11 SCC 201**, while the employee died on 13.12.1965, the application for compassionate appointment was made on 15.7.1987 and rejected by the authorities on 14.7.1988. The OA challenging the rejection having been filed after five



years on 12.7.1993, the Hon'ble Supreme Court held that the long delay, after refusal by the Government, in filing the application, the same cannot be entertained.

10. In the case of **State of J&K and Others vs. Sajad Ahmed Mir; (2006) 5 SCC 766**, the facts in brief were that on the death of the employee while in service on 6.3.1987, the appellant made an application for appointment on compassionate ground on 20.9.1991. The application was forwarded to the authorities in the year 1993. In the year 1996, the decision was taken that the applicant could not be appointed on compassionate ground. This decision was conveyed to the applicant, which was challenged by him in the year 1999. The learned Single Judge dismissed the writ application of the applicant, however, on appeal the Division Bench held the applicant entitled for the same. On the appeal having been preferred by the State of J&K, the Hon'ble Supreme Court held that on rejection of his application in March, 1996, the writ application having been preferred in June, 1999 and the same having been dismissed by the learned Single Judge in July, 2000; these facts showed that the family survived inspite of death of the employee and the Hon'ble Supreme Court allowed the appeal of the State of J&K restoring the order of learned



Single Judge rejecting the prayer for compassionate appointment.

11. In the case of **Surjeet Singh Sahni vs. State of Uttar Pradesh & Ors.; (2022) 15 SCC 536**, the Hon'ble Supreme Court held that mere representation does not extend the period of limitation and the aggrieved person has to approach the Court expeditiously and within a reasonable time. It further observed that if the writ petitioner is guilty of delay and laches, the High Court should dismissed the application at the threshold.

12. So far as the facts of the instant case is concerned, the death of the father of the appellant having taken place on 4.12.2010, he applied for appointment on compassionate ground on 8.2.2011 and the authorities not having taken any decision thereon, he moved this Court by filing writ application only in the year 2021. In the meanwhile he was appointed on contract; which is the reason cited for the delay. Having accepted the contractual appointment; he should have further pursued his claim for regular compassionate appointment before the appropriate forum. The appellant having not so prosecuted the matter diligently cannot raise it after long years.

13. In view of the decisions of the Hon'ble Supreme



Court referred to herein above, the writ application having been filed more than 10 years after the death of his father as also filing of his application, the case of the appellant clearly suffers from delay and laches on his part. The learned Single Judge rightly rejected the prayer made in the writ application.

14. The Court finds no merit in the instant appeal and the same is dismissed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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