

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5950 of 2023

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Vivek Kumar Son of Late Krishna Nandan Singh, Resident of Village-Amba,
P.O. and P.S. Hariharganj, District-Palamu, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Patna-cum-Chairman, District Level Compassionate Committee, Patna.
4. The Deputy Collector, Establishment, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Alka Singh, Advocate.

For the Respondent/s : Mr.Sita Ram Yadav, GP-16.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 18-11-2024 Heard learned counsel appearing on behalf of the

petitioner and learned counsel for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought, *inter alia*, following relief(s), which is

reproduced hereinafter:-

(i) To issue an appropriate writ preferably in the nature of 'Certiorari' for setting aside the part of decision taken by the District Level Compassionate Committee in its meeting held on 27.1.2023 whereby and where under the application made by the petitioner for appointment on compassionate ground has been rejected on the sole ground of delay in making the application. The said decision has been communicated through Memo No.383 dated 27.1.2023.

(ii) To issue an appropriate writ preferably in the nature of 'Mandamus' commanding upon the respondent authorities to appoint the petitioner on compassionate ground on any vacant and sanctioned post in Minor Water Resources Department, Government of Bihar, Patna with all consequential benefits.

(iii) to grant any other relief(s) for which the petitioner may be found entitle to in the facts and circumstances of the case.



Facts:

3. The father of the petitioner namely Krish Nandan Singh was posted as Guard in the office of the Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna. While the father of the petitioner was at his native place in village – Amba, P.S. - Hariharganj, District – Palamu, Jharkhand, he died in harness on 06.04.2024. At that time, the age of the petitioner was 14 years. Thereafter, the petitioner pursued his studies and passed secondary School Examination in the year 2020. The petitioner had applied for compassionate appointment for the first time on 19.07.2021 and the same was rejected on the ground of delay.

Submissions on behalf of parties:

4. Learned counsel appearing on behalf of the petitioner submitted that the father of the petitioner was working in the office of the Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna who died in harness on 06.04.2014, leaving behind the legal heirs and the representatives. Learned counsel further submits that the petitioner at the time of death of his father was 14 years old. The wife of the deceased being illiterate was not eligible for compassionate appointment. Thereafter, the petitioner pursued his studies and passed secondary School Examination in the



year 2020. However, due to COVID-19 pandemic, the petitioner could not apply for compassionate appointment within time. The petitioner had applied for compassionate appointment in the office of the Chief Engineer, Minor Water Resources Department, Patna for the first time on 19.07.2021 for the said reason and the same was rejected by the District Level Compassionate Committee on the ground of delay.

5. *Per contra*, learned counsel appearing on behalf of the respondents submitted that the scheme of compassionate appointment is to provide immediate financial help to the family of the deceased employee with the pious wishes that the family will mitigate the hardship by virtue of the sudden death of the sole bread earner in harness. He submitted that the father of the petitioner had died in harness on 06.04.2014 and the family of the petitioner survived for more than seven years before the petitioner has filed his first application for his appointment on compassionate ground on 19.07.2021 before the competent authority. The petitioner had attained majority in the year 2018. The District Level Compassionate Committee after considering the application of the petitioner for appointment on compassionate ground has rejected the same on the ground of delay.

Analysis & Conclusion:



6. Heard the parties.

7. The law is well settled in respect of appointment on compassionate ground. The Apex Court relying on the ratio of ***Umesh Kumar Nagpal v. State of Haryana and Others*** reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

8. In the case of ***Jagdish Prasad v. State of Bihar***



reported in **(1996) 1 SCC 301**, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

9. In case of ***State of U.P. v. Paras Nath***, reported in **(1998) 2 SCC 412**, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

10. Reiterating the aspect of delay and laches would disentitle the discretionary relief being granted, the Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage board V. T.T. Murali Babu***, reported in **(2014) 4 SCC 108** has held in paragraph no.16 which is reproduced hereinafter :-

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that



when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis”

11. Based on the above principles and the pleadings made in the writ petition and the counter affidavit filed on behalf of respondents, the admitted facts are that the father of the petitioner died on 06.04.2014 while he was in service and for the first time, the petitioner made an application on 19.07.2021 for consideration of his appointment on compassionate ground after much delay of seven years and it cannot be said that the family of the petitioner faced any hardship on account of unexpected death in view of the fact that the petitioner has sustained to live till date, the present writ petition requires no interference.

12. The writ petition stands disposed of.

(Purnendu Singh, J)

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