

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5551 of 2012

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Santosh Kumar S/O Lt. Ram Naresh Singh Resident of Village - Gokhulpur,
Po/Ps- Bihta, Dist- Patna

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board.
2. The General Manager Cum Chief Engineer, Central Electric Supply Area, Patna
3. The Joint Secretary, Bihar State Electricity Board, Patna
4. Electrical Superintending Engineer, Electric Supply Division, Pesu West, Patna
5. Electrical Executive Engineer, Electric Supply Division, Bihta, Patna
6. Assistant Electrical Engineer, Electric Supply Sub Division, Maner, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar Singh, Advocate
For the Respondent/s : Mr. Anand Kumar Ojha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 04-03-2024 Heard Mr. Durgesh Kumar Singh, the learned

counsel for the petitioner and Mr. Anand Kumar Ojha, the

learned counsel appearing on behalf of the Respondent Board.

2. The present writ petition has been filed for

commanding the respondent to appoint the petitioner on a

suitable post on compassionate ground on account of death of

his mother, who was in service.

3. Learned counsel for the petitioner submits that the

mother of the petitioner namely, Rampari Devi was employed

on the post of Unskilled Khalasi, was posted at Electric Supply



Sub-Division, Maner, and she died in a road accident on 19.08.2003.

4. Learned counsel for the petitioner submits that the petitioner had applied for compassionate appointment on account of death of his mother in the office of respondent no. 6 on 22.12.2007 and respondent no. 6 has referred the application of the petitioner to respondent no. 5, vide letter no. 764, dated 24.12.2007.

5. Learned counsel for the petitioner further submits that the petitioner has applied within the stipulated time, i.e., within five years of death of his employed mother. The respondent no. 5 has forwarded the application of the petitioner to respondent no. 4. The Respondent No. 2, vide his letter no. 2 of 2008 addressed to the respondent no. 4, asked for original copy of the death certificate of the mother of the petitioner, the original death certificate of the father of the petitioner, attested death certificate in duplicate, and affidavit of the dependent for further action.

6. Learned counsel for the petitioner further submits that as per requirements mentioned in the letter no. 2 of 2008, petitioner submitted all the papers as required, except the death certificate of the father. He further submits that on 16.06.2008,



the eldest brother of the petitioner filed an objection before the respondent, stating therein that the affidavit filed by the petitioner regarding his no objection certificate on compassionate appointment is forged and he had not submitted any affidavit bearing oath no 2664, dated 21.05.2008 and he has requested for making an enquiry of such affidavit. The petitioner had filed a CWJC No. 5322 of 2011, for compassionate appointment and the said writ petition was disposed of vide order dated 25.03.2011 with a direction to consider the claim of the petitioner and dispose of the same.

7. Learned counsel for the petitioner further submits that despite of the direction of this Hon'ble Court, dated 25.03.2011, the respondents have not disposed of the claim of the petitioner and he had filed a representation dated 04.04.2011 along with the copy of the order dated 25.03.2011, passed in CWJC No. 5322 of 2011. The matter is still pending for consideration before the competent authority for his appointment on compassionate ground.

8. Learned counsel for the Board has filed a counter-affidavit stating therein that the Central Electric Supply Area, Patna has requested learned Sub-Divisional Judicial Magistrate, Danapur for updated status of the complaint case no. 365(C) of



2010 (*Kaushal Kishore Sharma Vs. Santosh Kumar*). The updated position of the aforementioned complaint case is still pending and vide letter no. 1038, dated 25.07.2011, issued by the erstwhile Joint Secretary of the Bihar State Electricity Board, Patna, the petitioner has been found that in compliance of the order dated 25.03.2011, passed in CWJC No. 5322 of 2011, necessary action should be taken after receipt of the up to date status report from the learned Sub-Divisional Judicial Magistrate, Danapur and the case of the appointment of the petitioner on compassionate ground was again placed before the Regional Compassionate Authority on 01.03.2012 and the decision of the Committee has been communicated to the petitioner vide letter no. 4827 dated 17.04.2011 and from the status report of the complaint case no. 365(C) of 2010, it also appears that the said complaint case is still pending before the learned Sub-Divisional Judicial Magistrate, Danapur and the compassionate appointment of the petitioner cannot be considered unless and until the complaint case no. 365(C) of 2010 will be decided by learned Sub-Divisional Judicial Magistrate, Danapur and the aforesaid complaint case was filed by the brother of the petitioner, stating therein that the petitioner had submitted his forged affidavit before the Board for



appointment on compassionate ground.

9. Learned counsel for the Board has also relied upon the judgment reported in **1994(4) SCC 138**, reported in the case of ***Umesh Kumar Nagpal Vs. The State of Haryana and Others***, and paragraph no. 6 of the said judgment is read as follows:

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.

For this very reason, employment cannot be granted after the lapse of reasonable time and in the present case, the mother of the petitioner had died long back in the year 2003 and the object of the compassionate appointment is to enable the family to get over the financial crisis, which it faces at the time of death of the sole breadwinner and in the present case, after the death of his mother, the petitioner has survived till date and now after the passage of time, the petitioner is not feasible on the ground that now he is over-aged.

10. In view of the settled principle of law reported in



the aforesaid **1994(4) (Supra)**, the petitioner is not entitled for a relief.

11. Accordingly, the writ petition stands dismissed.

(Rajesh Kumar Verma, J)

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