

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 13110 of 2021

Chandan Kumar son of Late Shatrughan Ray resident of Village and P.O.-
Dhadhi, P.S.- Nanpur, Distt. Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Personnel and Administrative Reforms, Patna.
3. The Principal Secretary, Home Dept., Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The Superintendent of Police, Sitamarhi.
6. The District Compassionate Appointment Committee through its Chairman, Sitamarhi.

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Ashhar Mustafa, Advocate Mr. Abu Nasar, Advocate Mr. Ashish Kumar Ranjan, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj (GP-5) Mr. Dhurendra Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 10-01-2024

The present writ petition has been filed for quashing the resolution dated 02.03.2021 of the District Compassionate Appointment Committee, Sitamarhi to the extent the claim of the petitioner has been rejected on the ground that he was a minor on the day he had filed application for compassionate employment i.e. on 20.04.2019.

2. The brief facts of the case according to the



petitioner are that his father died in harness while working as Chowkidar at Circle Office, Bokhra on 26.04.2014 after discharging impeccable service for a period of 24 years, 03 months 25 days. The father of the petitioner is stated to be survived by his wife and three sons including the petitioner herein as also two daughters.

3. The petitioner had applied for grant of compassionate appointment by filing an application dated 20.04.2019, with the consent of the rest of the legal heirs of the deceased father of the petitioner, however, the same has stood rejected by the District Compassionate Appointment Committee, Sitamarhi by the impugned order dated 02.03.2021, on the ground that the age of the petitioner on the date of filing of application for compassionate employment was only 16 years and nine months, hence he was minor and not eligible for being appointed on compassionate ground.

4. The Ld. counsel for the petitioner has submitted, by referring to the amendment made



by the General Administration Department, Government of Bihar, Patna vide resolution dated 21.08.2019, as contained in Letter dated 30th August, 2019 that clause-6 of the compassionate employment scheme, issued vide letter no. 2822 dated 27.04.1995, by the State Government, has stood partially amended and now addition has been made to the following extent:-

"परन्तु यह कि मृत सरकारी सेवक के आश्रित के नाबालिग होने की स्थिति में यदि आश्रित के माता पिता दोनों जीवित नहीं हों, अथवा उसके जीवित माता या पिता (चाहे जैसी भी स्थिति हो) के द्वारा सरकारी सेवक की मृत्यु के समय सरकारी सेवा की अर्हता नहीं धारण की जाती हो तो नाबालिग आश्रित को बालिग होने के एक वर्ष के अन्दर अनुकम्पा नियोजन हेतु दावा प्रस्तुत करना अनुमान्य होगा।"

5. Thus, it is submitted by the learned counsel for the petitioner that a breather has been granted to the dependents of the deceased government servants to file application for compassionate employment in case they are minor or they have not attained the eligibility qualifications, within a period of one year of attaining majority, so that their cases can be considered for appointment on compassionate ground. It is further submitted that since the petitioner had applied for compassionate



employment on 20.04.2019, had attained majority on 05.05.2020, the relaxation in clause-6 of the Government's resolution dated 27.04.1995 was notified vide letter dated 30.08.2019 and the Compassionate Appointment Committee had considered the case of the petitioner for compassionate employment only on 02.03.2021, the case of the petitioner ought to have been considered by treating him to have attained majority in time, applying the amendment made in clause-6 as aforesaid and accordingly, the petitioner ought to have been granted appointment on compassionate ground.

6. *Per contra*, the learned counsel for the respondent-State has submitted, by referring to the aforesaid circular dated 30.08.2019, as contained in Memo dated 07.09.2019 that even if the said amendment in clause-6 of the notification dated 27.04.1995 is taken into account, it was incumbent upon the petitioner to have filed a fresh application for appointment on compassionate ground, within the said extended period of one



year, after he had attained majority, which he has failed to do, hence his case has been rightly rejected.

7. I have heard the learned counsel for the parties and gone through the materials on record. It is not in dispute that the father of the petitioner died in harness on 26.04.2014, the petitioner had applied for appointment on compassionate ground on 20.04.2019 while he was minor, however, he attained majority on 05.05.2020 and only thereafter, the District Compassionate Employment Committee, Sitamarhi, had considered his claim for appointment on compassionate ground on 02.03.2021, however, had rejected his claim without taking into account the amendment made to clause-6 of the notification dated 27.04.1995, vide letter dated 30.08.2019, as contained in Memo dated 07.09.2019, by which the time limit of five years for filing application for compassionate employment has been extended and now it has been postulated that application can be filed by the dependent of the deceased within a period of



one year of attaining majority, in cases where the dependent of the deceased government servant is a minor at the time of expiry of the time limit of 5 years, for filing application for compassionate employment, from the date of death of the Government employee.

8. Considering the aforesaid amendment made to clause-6 of the notification dated 27.04.1995, vide letter dated 30.08.2019, as contained in Memo dated 07.09.2019, this Court finds that the application filed by the petitioner on 20.04.2019, for appointment on compassionate ground, though could not have been entertained upto 04.05.2020, i.e the day prior to the date on which the petitioner had attained majority, however, the case of the petitioner became alive and ripe with effect from the day he attained majority i.e. w.e.f 05.05.2020, inasmuch as though five years limitation period had expired but the extended period of one year from the day the petitioner had attained majority was yet to expire and since no decision had been taken by the District Compassionate Appointment



Committee, Sitamarhi, upon the application of the petitioner dated 20.04.2019, till or for that matter even much after the petitioner had attained majority, there was no occasion for the petitioner to have filed a fresh application during the extended period.

9. For the foregoing reasons, this Court finds that the submission of the Ld. counsel for the respondent-State that the petitioner was required to file a fresh application, within the said extended period of one year, after he had attained majority, is fallacious in as much as the application filed by the petitioner on 20.04.2019 was pending consideration and in the meantime, the petitioner had attained majority. Consequently, this Court finds that the decision of the District Compassionate Appointment Committee, Sitamarhi dated 02.03.2021, rejecting the claim of the petitioner on the ground that he was a minor on the day he had filed application for compassionate employment, i.e. on 20.04.2019, is perverse, arbitrary and contrary to law as also to the scheme



of compassionate appointment of the respondent-State, contained in notification dated 27.04.1995, as amended vide letter dated 30.08.2019, contained in Memo dated 07.09.2019, inasmuch as on the day, the District Compassionate Appointment Committee, Sitamarhi had considered the claim of the petitioner i.e 02.03.2021, the petitioner had attained majority, hence the decision of the District Compassionate Appointment Committee, Sitamarhi dated 02.03.2021, as far as the same relates to the petitioner, is set aside and the matter is remanded back to the District Compassionate Appointment Committee, Sitamarhi to consider the claim of the petitioner for appointment on compassionate ground afresh, without being impeded by the fact that his case is either barred by limitation or he was minor on the date of filing of application for appointment on compassionate ground.

10. It is needless to state that the District Compassionate Appointment Committee, Sitamarhi, shall consider the claim of the petitioner



for appointment on compassionate ground afresh, as aforesaid, within a period of six weeks of receipt/production of a copy of this order and the final order thereon shall be passed within the said time frame.

11. The writ petition stands allowed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	09.03.2024
Transmission Date	N/A

