

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7349 of 2018

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1. Sanjay Kumar, S/o Mahendra Ram, R/o Mohalla- New Colony Chhotki Delha, Road No.-4, Gali No-6, P.O.- Gaya, P.S.- Delha, District- Gaya.
 2. Ranveer Kumar, S/o Kamal Paswan, R/o Mohalla- Badki Delha, Dularganj, P.O.- R.S. Gaya, P.S.- Delha, District- Gaya.

... .. Petitioner/s

Versus

1. The Food Corporation Of India Through Its Managing Director and Ors.
2. The Zonal Manager, Food Corporation of India 10A Midilton Road Kolkata-700071.
3. The Regional Manager, Food Corporation of India Auranchal Bhawan, Exhibition Road, 3rd Floor, Patna
4. The District Manager, Food Corporation of India, Church Road, Gaya.
5. The Assistant Manager, DEPOT Food Corporation of India, Katori Hill Road, Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Adv.
For the Respondent/s : Mr. Prabhakar Tekriwal, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 15-04-2024 Heard learned counsel for the petitioners and learned counsel for the Food Corporation of India.

2. The present writ petition has been filed for directing the respondent authorities to appoint the petitioners on the post of loader in place of their fathers who were allowed to be superannuated on medical illness. Further prayer has also been made by directing the respondents to pay the entire benefit of the service from the date of superannuation of their fathers.

3. Learned counsel for the petitioners submit that the



fathers of the petitioners filed their representations before the respondent No.5 (The Assistant Manager, DEPOT Food Corporation of India, Katori Hill Road, Gaya) that they were suffering from various disease and are unable to work allotted to them and therefore, made a request that at their place, their sons (present petitioners) would be appointed as loader. Counsel further submits that the said representation was filed by the fathers of the petitioners according to the then policy, but till date, the case of the petitioners has not been taken into consideration.

4. Learned counsel for the Food Corporation of India on the other hand submits that the case of the petitioners has been duly considered and as per the roster, the name of the petitioners were present at serial no.30 and 36 respectively in the list for compassionate appointment *vide* Annexure-R/1 of the counter affidavit. But, in addition to this, counsel for the Food Corporation of India raised preliminary objection and submits that the cause of action for the petitioners has arisen in the year 2005 and they have filed the present writ petition in the year 2018 and therefore, this matter ought not to be entertained. Counsel further relied on the judgment passed by Hon'ble Apex Court in case of ***State of Himachal Pradesh & Anr. Vs. Shashi***



Kumar reported in **(2019) 3 SCC 653** whose paragraph no.35 states as follows:-

“Insofar as the individual facts pertaining to the respondent are concerned, it has emerged from the record that the writ petition before the High Court was instituted on 11-5-2015. The application for compassionate appointment was submitted on 8-5-2007. On 15-1-2008 the Additional Secretary had required that the amount realised by way of pension be included in the income statement of the family. The respondent waited thereafter for a period in excess of seven years to move a petition under Article 226 of the Constitution. In case of Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138 : 1994 SCC (L&S) 930, this Court has emphasized that the basis of a scheme of compassionate appointment lies in the need of providing immediate assistance to the family of the deceased employee. This sense of immediacy is evidently lost by the delay on the part of the dependant in seeking compassionate appointment.”



5. Upon going through the pleadings, it transpires to this Court that the present writ petition has been filed by the petitioners after a delay of 13 years and therefore, this Court is not inclined to entertain this writ petition and accordingly, this writ petition is hereby dismissed.

6. It is made clear to the respondent (Food Corporation of India) that dismissal of the present writ petition shall not disturb the position of the petitioners named in the roster and they shall be considered on the post of loader according to the roster and the rules applicable to them.

(Dr. Anshuman, J.)

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