

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.492 of 2021

In

Civil Writ Jurisdiction Case No.1749 of 2019

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Sunny Kumar S/o Late Satyendra Singh, Resident of Village-Daulatpur
Gandhi Tola, PS Gaurichak, District-Patna.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Govt. of Bihar, Patna.
3. The Principal Secretary, Human Resource Department, Government of Bihar, Patna.
4. The Secretary General Administration Department, Bihar, Patna.
5. The Additional Secretary, Home (Police) Department, Government of Bihar, Patna.
6. The Director General of Police cum Inspector General of Police, Home (Police) Department, Government of Bihar, Patna.
7. The Assistant Director General of Police cum Inspector General of Police, Welfare (Police) Department, Government of Bihar, Patna.
8. The Inspector General of Police, Welfare Department, Government of Bihar, Patna.
9. The Assistant Inspector General of Police, Welfare Department, Government of Bihar, Patna.
10. The Superintendent of Police, Aurangabad.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Uday Prasad Singh, Adv.
Mr. Praveen Kumar Pandey, Adv.
For the State : Mr. Saroj Kumar Sharma (AC to AG 3)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-11-2024

Appellant has assailed the order of the learned

Single Judge dated 01.02.2019, passed in CWJC No.



1749 of 2019. The grievance of the Sunny Kumar – appellant, before the learned Single Judge is that he is entitled to be appointed on compassionate ground on account of his father's death on 09.12.2005, his father was serving as a Constable.

2. The respective counsels before the learned Single Judge have not appreciated the fact that late Satyendra Singh - father of appellant – Sunny Kumar was dismissed from the service on 08.12.2004 which was the subject matter of litigation in CWJC No. 6063 of 2008. On 26.04.2011 the following order was passed:-

"Late Satyendra Singh who was a Constable, was dismissed from service by the order as contained in Annexure – 5 dated 18.06.2005 issued by the Superintendent of Police, Aurangabad. After six months of the order of dismissal, Satyendra Singh died and as such, his wife had pursued the appeal before the D.I.G., Magadh Range, Gaya. The D.I.G. dismissed the appeal on 15.02.2006. The widow of Late Satyendra Singh filed a memorial before the D.G. - cum- I.G., Patna, which was not considered on the ground that the wife of an employee had no right to file a memorial.



A disciplinary proceeding was initiated against the petitioner on the ground that he had fired two rounds in a drunken state and that he used to abuse his superior officers.

It has been submitted on behalf of the petitioner that the punishment awarded to Satyendra Singh is excessive in view of the fact that such an allegation has been levelled against the husband of the petitioner after twenty years of good service record.

In the facts of this case, this Court comes to the conclusion that the D.G. - cum- I.G., Patna ought to have considered the memorial filed on behalf of the petitioner as she is the legal heir of the deceased constable late Satyendra Singh and has a right to pursue all the remedies on his behalf.

I accordingly direct that if a fresh memorial is filed within a period of four weeks from today, the D.G. - cum- I.G., Patna should consider the memorial and pass appropriate orders within a period of six months from the date of filing of the memorial.

This application is disposed of with the aforesaid observations and directions."

3. Thereafter, D.G.-cum-I.G proceeded to set aside the dismissal order on 26.04.2011. Therefore,



cause of action to the appellant – Sunny Kumar and her mother accrued on 26.04.2011 insofar as claiming compassionate appointment. Therefore, appellant's mother submitted application for compassionate appointment to her son – Sunny Kumar – appellant on 01.10.2013. Delay in filing application seeking compassionate appointment is on technicalities to the extent that it was beyond the control of the appellant's mother/appellant to seek compassionate appointment within five years from the date of death of constable on 09.12.2005 read with the fact that appellant's father was dismissed from the service on 08.12.2004. Technically, the appellant and her mother were not entitled to make application seeking compassionate appointment within five years from the date of death of the constable on 09.12.2005.

4. In view of these facts that deceased constable was dismissed from service on 08.12.2004 and it was subject matter of litigation before this Court



and before the appellant authority and ultimately it was set aside by the appellate authority on 26.04.2011. Therefore, cause of action accrued to the appellant with effect from 26.04.2011. Whereas appellant's mother submitted application on 01.10.2013 in seeking compassionate appointment to her son – Sunny Kumar – appellant and it is within five years.

5. These facts of the case have not been apprised by the learned Single Judge while deciding CWJC No. 1749 of 2019 on 01.02.2019. Therefore, the appellant has made out prima facie case so as to interfere with the order of the learned Single Judge dated 01.02.2019 passed in CWJC No. 1749 of 2019 and it is set aside. The concerned authority is hereby directed to revisit the issue of considering the appellant's name for compassionate appointment in view of the above factual aspects of the matter and the fact that cause of action accrued to submit application for compassionate appointment was with effect from



26.04.2011 and it is within five years.

6. Thus, learned Single Judge has committed error in drawing an inference that appellant’s application for compassionate appointment was beyond five years.

7. CWJC No. 1749 of 2019 filed by the appellant – Sunny Kumar stands allowed and the concerned authority is hereby directed to examine the grievance of the appellant afresh and proceed to pass a detailed speaking order within a period of three months from the date of receipt of this order. If the appellant is entitled to compassionate appointment in that event necessary order of compassionate appointment shall be issued at the earliest.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

Nirajkrs/-

AFR/NAFR	NAFR
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