

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.690 of 2019

In
Civil Writ Jurisdiction Case No.7060 of 2015

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Prem Kumar Choubey son of Late Rajendra Choubey Resident of Village Jarijawa, Police Station Mufassil Thana- Buxar, District Buxar.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Joint Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
3. The Deputy Secretary, Health Department, New Secretariat, Patna.
4. The Director, Indigenous Medicine, Health Department, New Secretariat, Patna.
5. The Deputy Director, Indigenous Medicine, Health Department, New Secretariat, Patna.
6. The Principal, Rajkiya Shri Dhanwantri Ayurvedic College, Ahirauli, Buxar.
7. The Chairman, Compassionate Establishment Committee Cum- District Magistrate, Buxar.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Rang Nath Choubey, Advocate
For the Respondent/s : Mr.S.D. Yadav (Aag9)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY

ORAL JUDGMENT

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

Date : 02-07-2024

In the instant appeal, the appellant has assailed the order of learned Single Judge dated 24.03.2019 passed in CWJC No. 7060 of 2015.

2. The grievance of the appellant is in respect of compassionate appointment. The appellant's father died on



29.05.2002 while he was in service. The appellant had submitted application for compassionate appointment on 15.03.2004. Thereafter, his mother filed an application on 19.07.2011. The concerned respondents have taken a decision that the appellant is not entitled to be appointed on compassionate ground on 31.12.2015. The decision of the respondent is a subject matter in CWJC No. 7060 of 2015 and it was rejected by the learned Single Judge on 23.04.2019 on the score of delay.

3. Learned counsel for the appellant submitted that appellant's application for compassionate appointment was within the time limit stipulated in the policy decision governing the compassionate appointment. Therefore, rejection of the appellant grievance relating to compassionate appointment by respondent and order of the learned Single Judge are incorrect and they are liable to be set aside and necessary direction shall be issued to the concerned respondent to re-visit the appellant's claim on compassionate appointment and to appoint him.

4. No doubt, it is true that appellant had submitted application for compassionate appointment on 15.03.2004 in the light of the fact that his father was died on 29.05.2002 while he was in service.



5. Be that as it may, the appellant had a cause of action in approaching this Court in the year 2004 to 2005. Matter relates to compassionate appointment, therefore, the appellant should have been alert in approaching this Court. On the other hand, after about seven years, appellant's mother had submitted application on 19.07.2011 and it was rejected by the respondents on 31.12.2015.

6. Taking note of dates and events, it is evident that there is an enormous delay and laches on the part of the appellant in redressing his grievance before this Court within a reasonable period of time. If the respondents have not taken decision on the appellant's application dated 15.03.2004 in that event, he cannot wait for their decision for years together. Thus, he slept over the matter and resultantly there are laches on his part from April, 2004 to 19.07.2011.

7. The Hon'ble Supreme Court time and again held that compassionate appointment is not a matter of right. It is also observed that if the family of the deceased have no difficulty in managing the family for years together. Thereafter, question of harness in the family after few years cannot be taken into consideration. Large number of issues are considered including belated claim by the Hon'ble Supreme Court in the case of **State**



of West Bengal vs. Debabrata Tiwari and Ors. reported in **AIR Online 2023 SC 174.**

8. Having regard to the facts of the case and the principle laid down by the Hon’ble Supreme Court in the cited decision. The appellant has not made out a case so as to interfere with the order of learned Single Judge dated 23.04.2019 passed in CWJC No. 7060 of 2015.

9. Accordingly, the present LPA No. 690 of 2019 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.07.2024
Transmission Date	NA

