

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1139 of 2021

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Ashutosh Kumar Son of Sikandar Prasad Yadav @ Sikandar Yadav Resident
of Village- Nayatola Tinghiria, P.S. Kursela, P.O.- Ayothyaganj Bazar,
District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Home Department,
Government of Bihar, Patna.
2. The D.G., Bihar Grih Raksha Wahini, Patna.
3. The District Magistrate, Katihar.
4. The Superintendent of Police, Katihar.
5. The District Commandant, Grih Raksha Wahini, Katihar.
6. The Sub Divisional Officer, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Durga Nand Jha
For the Respondent/s : Mr. AG

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 03-12-2024

Heard learned Advocate for the petitioner and the
learned Advocate for the State.

2. The petitioner has invoked the jurisdiction of this
Court seeking a direction upon the respondents to appoint him
on the post of Home Guard on compassionate ground as per the
Amended Rules, 2006.

3. Learned Advocate for the petitioner contended that
the father of the petitioner was appointed as a Home Guard on
25.10.1988 in terms of the Bihar Home Guards Act, 1947.
While the father of the petitioner was working in Dumra Police
Station, Katihar as Home Guard No. 5396, he died in harness on



19.04.2001. Since at the time of the death of the father of the petitioner, the petitioner was minor and as such he could not be in a position to file an application for appointment on compassionate ground. However, after attaining the age of majority, the petitioner has submitted application to consider his claim for appointment on compassionate ground. Despite repeated representations filed on behalf of the petitioner, the same could not be considered compelling the petitioner to approach before this Court.

4. A counter affidavit has been filed on behalf of respondent nos. 2 to 5. Learned Advocate for the State referring to Memo No. 858/C dated 27.01.2006, copy of which is marked as Annexure-A to the counter affidavit, has contended that the father of the petitioner was died way back on 19.04.2001. It is the admitted position that at that point of time no provision was available for appointment on compassionate ground on account of death of a Home Guard in service. For the first time, the State Government has taken a decision on 27.01.2006 extending the benefit of appointment on compassionate ground. Since the petitioner was not even major at the time of death of his father and the rule came into effect in the year 2006 which cannot apply retrospectively; hence the claim of the petitioner is not



sustainable.

5. Having heard the learned Advocate for the respective parties and taking note of the decision of the State Government as contained in Memo No. 858/C dated 27.01.2006 by which the provision has been extended to consider the claim of a dependent for compassionate appointment on account of death of a Home Guard in service. It is the admitted position that the father of the petitioner died on 19.04.2001 i.e., much before coming into force of the aforementioned memo. It is also worth noticing that the father of the petitioner died way back in the year 2001 and now more than two decades have elapsed, the very object of compassionate appointment to provide immediate succor to the bereaved family, which has left in penury and without any means of livelihood, also stands frustrated.

6. On account of the aforesaid reasons, this Court does not find any merit in the writ petition and accordingly the present writ petition stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.12.2024
Transmission Date	

