

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.734 of 2019

In
Civil Writ Jurisdiction Case No.18766 of 2015

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Chanchala Kumari D/o Constable No. 714 B.M.P. 7 Son of Late Raj Kumar
Dubey Resident of Dugil P.o.- Bansdih, P.s.- Lalganj, distt.- Palamu

... .. Appellant/s

Versus

1. The State of Bihar
2. The Inspector General Prisoner Bihar, Patna
3. The Commandant B.M.P.-7, Katihar
4. The Dy. Commandant B.M.P.-7, Katihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Karandeep Kumar, Advocate
For the Respondent/s : Mr. Saroj Kr. Sharma, AC to AAG 3

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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 : 05-08-2024

Re: I.A. No. 1 of 2019

Heard I.A. No. 1 of 2019, for the purpose of delay.

2. For the reasons stated in the application and affidavit,
delay of about four days in filing the present LPA No. 734 of 2019
is condoned. I.A. No. 1 of 2019 stands allowed.

3. With the consent of the learned counsels of the
respective parties, present LPA No. 734 of 2019 has been taken up
for final disposal.



4. Brief facts of the case are that appellant *Chanchala Kumari's* father *Raj Kumar Dubey* while holding the post of Constable, he died on 28.02.1998. His wife had adopted a son on 18.10.1999. He had submitted application in the year 1999 seeking compassionate appointment. There was inaction on the part of the respondents in either accepting or rejecting the claim of the adopted son for compassionate appointment. Even the family members of the deceased *Raj Kumar Dubey* have not persuaded before the competent forum to the extent that there was inaction on the part of the official respondent in not taking any action on compassionate appointment application filed by the adopted son. On the other hand, they persuaded in filing yet another application on 09.08.2012 in seeking compassionate appointment of *Chanchala Kumari*, daughter of the deceased *Raj Kumar Dubey*. Even on that application respondents have not passed any order. Resultantly, CWJC No. 18766 of 2015 has been filed.

5. Learned Single Judge has taken note of delay and laches on the part of the appellant and proceeded to dismiss CWJC No. 18766 of 2015 on 30.04.2019. Hence, the present LPA.

6. Learned counsel for the appellant submitted that there is inaction on the part of the official respondent insofar as not taking any decision either in accepting or rejecting the adopted



son's application filed in the year 1999 insofar as compassionate appointment. Resultantly, on 09.08.2012, appellant *Chanchala Kumari*, daughter of the deceased *Raj Kumar Dubey*, filed application for compassionate appointment. The official respondent have not acted on the appellant's application dated 09.08.2012. Resultantly, CWJC No. 18766 of 2015 has been filed. It is submitted that there is inaction on the part of the official respondent on the appellant's grievance, therefore, the same has not been appraised by the learned Single Judge.

7. On the other hand, learned counsel for the respondents resisted the aforementioned contentions and submitted that there is no infirmity in not taking any action on the appellant's application dated 09.08.2012 for the reasons that policy relating to compassionate appointment does not permit after lapse of number of years to entertain application for compassionate appointment therefore, there is no infirmity in the order of the learned Single Judge dated 30.04.2019 passed in CWJC No. 18766 of 2015.

8. Heard learned counsels for the respective parties.

9. Core issue involved in the present *lis* is whether appellant – *Chanchala Kumari*'s application was within the time limit or within a reasonable period of time in seeking compassionate appointment or not? Undisputedly, appellant's



father *Raj Kumar Dubey* died on 28.02.1998. His wife is stated to have adopted a son in the year 1999 and thereafter she has sought for appointment for the adopted son. If there was inaction on the part of the official respondent, in all fairness, they should have knocked the door of this Court at the earliest point of time. Even though for filing of writ petition, there is no time limit. Be that as it may, three years could be reasonable period from the date of cause of action accrued to the adopted son, the same has not been exercised. Thereafter, more than one decade has been taken by the appellant -*Chanchala Kumari* in filing application in seeking compassionate appointment.

10. Time and again Courts have held that insofar as entertaining compassionate appointment grievance, it should be within a reasonable period from the date of death of the deceased employee so as to meet harness in the family. In the present case, such harness was there on 28.02.1998 whereas appellant's application was on 09.08.2012. In view of these facts and circumstances, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 30.04.2019 passed in CWJC No. 18766 of 2015 on the score that family has overcome the harness during the intervening period from the year



1999 to 2012. Hence present LPA No. 734 of 2019 stands dismissed.

11. Pending I.A.s, if any, stand disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
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