

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14669 of 2022

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Sunil Kumar Son of Late Bhaskar Narayan Mali@ Bhaskar Narayan,
Resident of - Budhanpurva, P.S.- Buxar Town, District- Buxar, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Minor Irrigation, Govt. of Bihar.
2. The Secretary, Minor Irrigation, Govt of Bihar, Patna.
3. The Chief Engineer, Tubewell Govt. of Bihar
4. The Superintending Engineering, Tubewell Circle, Bhojpur, Ara.
5. The Executive Engineer, Tubewell Division, Buxar, Bihar.
6. The District Magistrate, Buxar.
7. The Additional Collector, Buxar-cum-DDC.
8. The Executive Engineer, Rural Engineering Organization, Buxar
9. The Assistant Commissioner, Commercial Taxes, Buxar.
10. The Deputy Collector (Establishment), Buxar.
11. The In-charge District Welfare Officer, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Surendra Kumar Singh, Adv.
For the Respondent/s : Mr.Kapileshwar Pd. Yadav (GP-11)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-02-2024

1. The present writ petition has been filed for quashing the decision taken by the District Compassionate Appointment Committee, Buxar on 05.05.1994, as contained in memo dated 17.05.1994, whereby and whereunder the claim of the petitioner for appointment on compassionate ground has been rejected. The petitioner has further prayed for directing the respondents to appoint the petitioner on compassionate ground.

2. The brief facts of the case, according to the petitioner



are that his father died in harness on 31.12.1988, while posted as Tubewell Operator at Tubewell Division, Buxar, Department of Minor Irrigation, Government of Bihar, Patna, whereafter the petitioner had filed an application for grant of compassionate employment, which was placed before the District Compassionate Committee, however, the same was rejected vide minutes of meeting dated 05.05.1994 on the ground that the petitioner was minor at the time of death of his father. The petitioner had then filed a review application on 23.07.2001, before the District Collector and the Executive Engineer, however, to no avail. The petitioner had in the meantime passed Matriculation Examination and the Intermediate Examination, hence had again filed an application on 03.03.2004, for appointment on compassionate ground before the District Magistrate and the Executive Engineer. The petitioner had also filed an application for compassionate employment on 05.12.2007, however, to no avail. Thus, it is submitted that a sympathetic view be taken and the respondents be directed to provide compassionate employment to the petitioner.

3. Per contra, the learned counsel for the Respondent-State has raised a preliminary objection with regard to the maintainability of the present writ petition, inasmuch as the



present writ petition has been filed belatedly, after a great delay of about 36 years. The learned counsel for the Respondent-State has submitted that the Hon'ble Apex Court, in a catena of judgments, has held that while exercising extraordinary and equitable jurisdiction under Article 226 of the Constitution of India, the Constitutional Court, while protecting the rights of citizens, should simultaneously keep itself alive to primary principle that when an aggrieved person, without adequate reason, approaches the Court belatedly, at his own leisure or pleasure, the writ Court is not required to grant any indulgence to such indolent person and on the ground of delay and laches alone, the writ Court ought to throw the petition overboard at the very threshold. In this regard, the learned counsel for the Respondent-State has referred to the following judgments:-

“(i). ***Chennai Metropolitan Water Supply & Sewerage Board & Others vs. T.T.Murali Babu***, reported in (2014) 4 SCC 108.

(ii). ***State of Uttranchal & Anr. vs. Shiv Charan Singh Bhandari & Ors.***, reported in 2013 AIR SCW 6627.

(iii). ***C. Jacob vs. Director of Geology & Mining & Anr.***, reported in AIR 2009 SC 264.



(iv). *State of Jammu & Kashmir vs. R.K. Zalpuri & Others*, reported in AIR 2016 SC 3006.

(v). *State of Tamil Nadu vs. Seshachalam*, reported in (2007) 10 SCC 137.

4. The learned counsel for the respondents has further submitted that after the father of the petitioner died in harness on 30.12.1988, all his death-cum-retiral benefits were paid to the petitioner inasmuch as the mother of the petitioner had already pre-deceased his father. It is also submitted that at the time of death of his father, the petitioner was a minor and after attaining majority, he had filed an application for appointment on compassionate ground on 24.01.1994, whereafter his application was forwarded to the District Compassionate Appointment Committee, Buxar, which had examined the claim of the petitioner in its meeting held on 05.05.1994, however, it found that the claim of the petitioner cannot be entertained in view of the circular issued by the Personnel and Administrative Reforms Department, Govt. of Bihar, Patna, vide letter no.4735 dated 19.05.1992, according to which, if a dependent of a deceased employee is a minor at the time of death and attains majority later on, his claim for compassionate appointment cannot be



considered. Thus, considering the fact that the petitioner was minor at the time of death of his father, the District Compassionate Appointment Committee, Buxar, had rejected the case of the petitioner for appointment on compassionate ground in view of the aforesaid circular dt. 19.05.1992 and had communicated the said decision to the petitioner vide memo dt. 17.05.1994. Therefore, it is submitted by the learned counsel for the respondents that even on merits, the petitioner has got no case, apart from the fact that, at this juncture, after a lapse of about 36 years of death of the father of the petitioner, the object of the scheme of compassionate employment would not be fulfilled inasmuch as the object behind grant of compassionate employment is to enable a family to tide over the immediate hardship, caused as a result of the death of the sole bread-earner.

5. I have heard the learned counsel for the parties and gone through the materials on record from which this Court finds that the present writ petition is fit to be dismissed on the ground of delay and laches alone, inasmuch as the petitioner has belatedly approached this Court after a lapse of about 34 years of the death of his father and after about 28 years of passing of the impugned order dated 17.05.1994. Thus, considering the principles laid down by the Hon'ble Apex Court in a catena of



judgments, as referred to by the Ld. counsel for the Respondent-State and recorded herein above in the preceding paragraphs, as also considering the maxim-“equity aids the vigilant and not those who slumber on their rights”, this Court is of the view that since the petitioner has not filed the writ petition within a reasonable period of time, this Court is not under any legal obligation to entertain the writ petition, especially considering the fact that the petitioner has not offered any reason whatsoever, for the enormous delay which has taken place in approaching this Court, hence, the present writ petition is dismissed on the ground of delay and laches.

6. Another aspect of the matter is that if any application is entertained after a long delay, other cases of similar nature may arise, where grant of immediate relief by providing employment to the dependent of the deceased employees may crop up, hence what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserving a job for one of the dependents. In this connection, it would be apt to refer to a judgment rendered by the Hon’ble Apex Court in the case of *Umesh Kumar Nagpal versus the State of Haryana and others*, reported in (1994) 4 SCC 138, paragraph no. 6 whereof is reproduced herein below:-



“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

7. Thus, this Court finds that even on merits, the petitioner is not entitled to any relief inasmuch as compassionate employment cannot be granted to him after a lapse of considerable time, i.e. 36 years in the present case, inasmuch as the object behind providing appointment on compassionate ground is to enable the family to tide over the immediate financial crisis, which it faces at the time of death of the sole bread winner, however, compassionate employment cannot be claimed as a matter of right after lapse of so many years, apart from the fact that the compassionate appointment scheme, prevailing at the relevant time, as contained in the circular dated



19.05.1992, clearly stipulates that the incumbent should be a major at the time of death of the Government employee, however, in the present case, the petitioner was minor at the time of death of his father, hence he was not eligible for grant of appointment on compassionate ground.

8. Considering the facts and circumstances of the case and for the reasons mentioned hereinabove in the preceding paragraphs, this Court finds that the present writ petition is fit to be dismissed on merits as also on the ground of delay and latches inasmuch as the petitioner has approached this Court belatedly after an unexplained delay of about 34 year, hence, the present writ petition stands dismissed on the ground of delay and latches as well as on merits.

(Mohit Kumar Shah, J)

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