

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14792 of 2023

Kamla Devi Wife of Late Ram Babu, Resident of Mohalla-Yarpur, Ambedkar Colony, Gardanibag, Patna, P.O.-G.P.O. at Patna, P.S.-Gardanibag, District-Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Patna (Bihar).
2. The Chief Executive Officer, Patna Municipal Corporation, Patna (Bihar).
3. The Mayer, Patna Municipal Corporation, Patna (Bihar).
4. The City Commissioner, Patna Municipal Corporation, Patna (Bihar).
5. The Chairman, Patna Municipal Corporation, Patna (Bihar).

... .. Respondent/s

Appearance:

For the Petitioner/s	:	Mr. Ful Man Singh, Advocate
For the Respondent/s	:	Mr. Kinkar Kumar (Sc9)
For the PMC	:	Mr. Ranjeet Kr. Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 01-04-2024

1. The present writ petition has been filed for directing the respondents to appoint the son of the petitioner on compassionate ground.

2. The brief fact of the case are that the husband of the petitioner died in harness on 26.07.1999 while working as sweeper with the Patna Municipal Corporation, Patna. The petitioner is stated to have filed a representation on 14.07.2017 before the respondent no. 2 by registered post, however when no relief was granted to the petitioner, she had filed a writ petition



bearing CWJC No. 16397 of 2017, which was not entertained by this Court on account of delay and laches on the part of the petitioner in approaching this Court, consequently the petitioner had withdrawn the said writ petition, however while permitting the petitioner to withdraw the writ petition, this Court by an order dated 01.05.2018 had made it clear that henceforth, no writ petition on the subject matter in issue in the said case shall lie before this Court.

3. The learned counsel for the petitioner has submitted that since the petitioner has grown old, now she wants that her son should be appointed on compassionate ground, who has passed Class-VIIth and his date of birth is 06.02.1992.

4. Per contra, the learned counsel for the State has submitted that not only the present writ petition is barred by the principles of delay and laches but also by the principles of res judicata, inasmuch as the earlier writ petition, filed by the petitioner, was permitted to be withdrawn, however, it had been made clear that no further writ petition would lie on the subject matter in issue, as would be apparent from the order dated 01.05.2018, passed by this Court in the case of the petitioner i.e. CWJC No. 16397 of 2017.

5. I have heard the learned counsel for the petitioner and



perused the materials on record from which it is clear that the present writ petition is barred by the principles of res judicata and is a sheer abuse of the process of the Court, inasmuch as the petitioner had earlier approached this Court for same and similar relief, by filing a writ petition bearing CWJC No.16397 of 2017, however, the same was permitted to be withdrawn by an order dated 01.05.2018 and it was categorically observed therein that henceforth, no writ petition would lie before this Court on the subject matter in issue.

6. Nonetheless, the petitioner has approached this Court again by filing the present writ petition, for the same and similar relief. The practice of filing repeated writ petitions for same and similar relief has been deprecated, even by the Hon'ble Apex Court. Reference in this regard be had to the judgments, reported in *AIR 1968 SC 111* (Hular Rai Baijnath Firm v. K.B. Das and Company), *AIR 1999, SC 509* (Upadhyay and Company v. State of U.P.), *1996 4 SCC 378* (Staff Association and others v. State Bank of India and others) and the one reported in *1997 2 SCC 534* (Avinash Nagra v. Navodaya Vidyalaya Samiti and others). Reference be also had to a judgment reported in *(1987) 1 SCC page 5* (Sarguja Transport Service v. State Transport Appellate Tribunal).



7. Thus, it is a well-settled law that filing of successive writ petitions for the same cause of action is not only against the public policy but also amounts to abuse of the process of the Court. It is a well-settled proposition of law that what cannot be done “per directum” is not permissible to be done “per obliquum” meaning thereby that whatever is prohibited by the law to be done, cannot legally be effected by indirect and circuitous contrivance on the principle of “quando aliquid prohibetur, prohibetur omne per quod devenitur ad illud”.

8. Considering the facts and circumstances of the case and for the reasons mentioned hereinabove in the preceding paragraphs, the present writ petition stands dismissed, being barred by the principles of res judicata. Yet another aspect of the matter is that in case 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 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 the present case, the petitioner is even otherwise not entitled to any relief, inasmuch as compassionate employment cannot be granted after a lapse of considerable time



i.e. about 24 years in the present case, inasmuch as the object behind compassionate employment is to enable the family to tide over the immediate financial crisis, which it faces at the time of death of sole bread winner, however compassionate employment cannot be claimed after a lapse of so many years. Reference in this connection be had to a judgment rendered by the Hon’ble Apex Court in the case of *Umesh Kumar Nagpal vs. The State of Haryana & Ors.*, reported in (1994) 4 SCC 138.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.05.2024
Transmission Date	NA

