

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17158 of 2024

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Shobha Kumari, wife of Late Ramesh Kumar, Resident of Aam Bagicha,
Mahadevpuri, P.S.- Gardanibagh, Dist.- Patna.

... .. Petitioner/s

Versus

1. Life Insurance Corporation of India through Manager (P&IR) Patna,
Divisional Office-II, 3rd Floor, Jeevan Ganga Building, Fraser Road, Patna-
800001.
2. Regional Manager (P & IR), Life Insurance Corporation of India, Zonal
Office, Jeevan Deep, Exhibition Road, Patna-1.
3. Assistant Secretary, (P and IR), Life Insurance Corporation of India, Zonal
Office, Jeevan Deep, Exhibition Road, Patna-1.
4. Senior Divisional Manager, Life Insurance Corporation of India, Patna
Division- II, Patna, Jivan Ganga Building, Frazer Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan Singh, Advocate.
For the Respondent/s : Mr. Rajnikant Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

Date : 02-12-2024

Heard Mr. Prabhat Ranjan Singh, learned counsel
appearing on behalf of the petitioner and Mr. Rajnikant Singh,
learned counsel for the respondents.

2. The petitioner in paragraph no. 1 of the present
writ petition has sought, inter alia, following relief(s), which is
reproduced hereinafter:-

*“I. That, the order contained in letter
dt.2.7.24 vide ref-ECZO/P&IR/Comp. Apptt. passed by
respondent No.3, on behalf of Competent Authority, Life*



Insurance Corporation of India be quashed and set aside.

II. That, the order contained in letter reference No.PDO-II/PIR/2024-25/compass. Apptt. dt.14.5.24, passed on behalf of Competent Authority, Life Insurance Corporation of India be also quashed and set aside.

III. That, petitioner further prays for, in consequence of quashing of said order dt.2.7.24 and 14.5.24 son of petitioner Mr. Nishchay, second child of deceased employee, may kindly be directed to be appointed on compassionate ground, on Group C post in the office of respondent Life Insurance Corporation of India.

IV. That, for any other relief (s) for which petitioner is found entitled on the facts of this case and also in the eye of law.

Brief Facts:

3. The husband of the petitioner died in harness on 15.07.2020 while he was working as Assistant in Life Insurance Corporation of India, Patna leaving behind his wife, one major daughter and two minor sons. Under compelling circumstances, the petitioner could not file application for her appointment on compassionate ground and her major daughter was also not willing for the same. When her son attained majority on 24.04.2023, the petitioner who cannot sustain her family due to her poor financial position, had applied for providing appointment to her son on compassionate ground on 12.05.2023 for the first time and again represented on 12.12.2023, but no consideration was made by the respondents and rejected the claim. Aggrieved by the inaction on the part of the respondents, the petitioner filed the present writ petition.

SUBMISSION ON BEHALF OF THE PETITIONER



4. Learned counsel appearing on behalf of the petitioner submitted that without considering the provisions contained in LIC Recruitment (of Class III and Class IV staff) Instruction, 1993 (with modification incorporated till 31.03.2020), the respondents have rejected the application for considering the case of the petitioner's son on compassionate ground solely on the ground that the application has been made after the lapse of one year. Learned counsel further submitted that no assessment was made in respect of the financial position of the family of the petitioner and rejected the claim of the petitioner solely on the ground that two adult members i.e. the wife and the daughter of the deceased employee, just after the death of the deceased employee had not applied for their compassionate appointment. Without considering the financial condition of the second son of the petitioner and the family of the petitioner, the order rejecting the claim of the petitioner cannot sustain on mere technicality.

5. *Per contra*, Mr. Rajnikant Singh, learned counsel appearing on behalf of the respondents referring to para-5 of the counter affidavit filed on behalf of respondent nos. 1 to 4 submitted that there is no infirmity in the impugned orders dated 14.05.2024 (Annexure- P/7) and 02.07.2024



(Annexure- P/9) and considering the amendment made in Clause No. 21(v) of the LIC Recruitment (of Class III and Class IV staff) Instruction, 1993 (with modification incorporated till 31.03.2020), (Annexure- R/1) , the time limit from three years have been reduced to one year and in view of the said extant provision, the application of the petitioner which was filed after the lapse of one year, has rightly been rejected.

Analysis and Conclusion: -

6. Heard the parties.

7. The case of the respondent is that an application was filed on behalf of the second son of the petitioner on 12.05.2023 while his father had died in harness on 15.07.2020 while he was posted as Assistant in LIC. The company which has been established with an object to ensure the life of the people has shown no compassion in the case of the petitioner, who has been forced to file the present writ petition aggrieved by the action of the respondent who by taking technical stand has rejected the claim of the petitioner without any finding in respect of the financial position of the family of the deceased employee. In the present case, I can say that the very objective of the compassionate appointment has been defeated. From the impugned order, it is not clear, as to whether, the petitioner



herself and her first daughter who were major at the time of death of the deceased employee, had denied their willingness in absence of any evidence regarding the fact whether they required any appointment having entitled on the date. Any inference in that regard cannot affect the claim of the petitioner.

8. The order also reveals that no consideration in respect of any assessment was made by the respondent in respect of the financial position of the family. There is no consideration in respect of the entitlement of the petitioner. The sole ground of rejection is that after amendment w.e.f. 01.01.2018, a bar of one year has been made which disentitles the case of the petitioner to be considered which cannot be a ground of rejection.

9. The law is well settled in respect of appointment on compassionate ground. The Apex Court relying on the ratio of *Umesh Kumar Nagpal v. State of Haryana and Others* reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of *The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.* passed in *Civil Appeal nos. 8842-8855 of 2022*, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:



i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.

ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.

10. In the case of ***Jagdish Prasad v. State of Bihar*** reported in ***(1996) 1 SCC 301***, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

11. In case of ***State of U.P. v. Paras Nath***, reported in ***(1998) 2 SCC 412***, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a



Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

12. Having considered the rival submissions made on behalf of the parties, as well as, the several law laid down by the Apex Court in the case of *Umesh Kumar Nagpal (supra)*, *Debabrata Tiwari (supra)*, *Jagdish Prasad (supra)* and *Paras Nath (supra)*, which are exception to the general service condition Rules, the very word 'compassion' leads to show 'compassion to the employees and the dependent', in case they can be adjusted against Class-III or Class-IV post in extraordinary situation without there being any impediment of the Rules relating to the selection.

13. In light of the several decisions of the Hon'ble Supreme Court which mandates that compassionate appointment must be considered immediately to overcome the hardship faced by the family, however, in the facts of the present case, the son of the petitioner having become eligible after attaining his majority filed an application for his compassionate



appointment, though beyond the stipulated time, as provided by Circular No. 05/2018 dated 01.01.2018. From the impugned order, I find that in absence of any consideration with regard to the claim of the petitioner in the impugned orders dated 14.05.2024 (Annexure-P/7) and 02.07.2024 (Annexure-P/9), the same cannot be sustained.

14. The matter is required to be considered afresh by the concerned respondent forthwith.

15. The writ petition stands disposed of.

(Purnendu Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2024
Transmission Date	NA

