

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 18126 of 2022

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Sonu Kumar Son of Late Anil Prasad Singh Resident of Village and P.O.-
Samay, Police Station Muffasil Akauna, District - Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Secretary, Health Department,
Government of Bihar, Patna.
2. The District Magistrate cum Chairman, District Compassionate Committee,
Saran, Chapra.
3. The Civil Surgeon cum Chief Medical Officer, Saran, Chapra.
4. The Acting Medical Officer, Primary Health Centre, Rivilganj, Saran
Chapra.
5. The Deputy Collector (Establishment) Saran, Chapra.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Shree Kant Pandey, Advocate
For the Respondent/s : Mr. Rajeshwar Singh (Ga10)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 09-04-2024

The present writ petition has been filed for quashing that part of the order contained in Memo dated 19.09.2022, passed by the District Magistrate, Saran at Chapra, whereby and whereunder the claim of the petitioner for appointment on compassionate ground has been rejected on the ground of his application being time barred.

2. The brief facts of the case, according to the petitioner, are that the father of the petitioner died on 20.07.2008 in harness



while working as Clerk at Mahila Hospital, Sitab Diyara, Rivilganj, Saran. It is stated that the mother of the petitioner had filed a writ petition before this Court for payment of arrears of salary of her husband and for grant of appointment on compassionate ground, which was disposed of by a co-ordinate Bench of this Court by an order dated 26.10.2018, passed in CWJC No.11647 of 2018, with a direction to the respondents to consider the case of the petitioner and take a decision with regard to payment of arrears of salary qua her husband. It is further submitted that though the petitioner had filed an application before the respondents for grant of compassionate appointment as far back as on 09.08.2011, however, no heed was paid to the same. Nonetheless, the case of the petitioner was finally considered by the District Compassionate Appointment Committee, in its meeting held on 24.08.2022, under the Chairmanship of the District Magistrate, Saran at Chapra wherein a decision was taken to reject the application of the petitioner, inasmuch as the recommendation of the case of the petitioner had been made after lapse of 12 years, 3 months and 29 days of the death of the employee, i.e. 20.07.2008, whereas the Circular issued by the General Administration Department, Government of Bihar, Patna dated 30.08.2019 provides that the



application for appointment on compassionate ground should be made, within a period of five years of the death of the employee.

3. The learned counsel for the petitioner has contended that the respondents have violated the order of High Court dated 26.10.2018 and moreover, the application filed by the mother of the petitioner for grant of appointment on compassionate ground to the petitioner is not time barred, inasmuch as the mother of the petitioner had already filed such an application on 9.8.2011.

4. *Per contra*, the learned counsel for the respondent-State has submitted that though a writ petition bearing CWJC No. 11647 of 2018 was filed by the mother of the petitioner earlier but in the order dated 26.10.2018, passed by a co-ordinate Bench of this Court therein, there is neither any whisper about the claim of the petitioner for grant of compassionate appointment nor there is any direction to consider the case of the petitioner for grant of compassionate appointment, hence now it is too late in the day to contend that the application for grant of compassionate appointment was filed in time. It is further stated that admittedly, the petitioner has submitted the requisite documents in original only on 03.12.2020, whereafter the Incharge, Medical Officer, Primary Health Centre, Rivilganj, Saran had sent the application of the petitioner for appointment



on compassionate ground, vide letter dated 01.02.2021 to the Civil Surgeon-cum-Chief Medical Officer, Saran, Chapra. Ultimately, the District Compassionate Appointment Committee had considered the case of the petitioner for appointment on compassionate ground, in its meeting held on 24.08.2022 and his claim for appointment on compassionate ground has been rejected on the ground of his case being time barred. The said decision of the District Compassionate Appointment Committee is contained in Memo dated 19.09.2022. It is contended that the father of the petitioner had worked only upto 30.04.1993, whereafter he was unauthorizedly absent and had not worked upto to his death, i.e. 20.07.2008. Thus, it is submitted that the petitioner has got no case and the present writ petition is fit to be dismissed.

5. I have heard the learned counsel for the parties and perused the materials on record from which it is apparent that admittedly, the petitioner had not filed any application for grant of compassionate appointment, not even in the year 2011 and had submitted the requisite documents in original, to be sent to the authorities for consideration of his case for appointment on compassionate ground, only on 03.12.2020, i.e. after lapse of more than 12 years of the death of his father, which had taken



place on 20.07.2008. Hence, the claim of the petitioner for appointment on compassionate ground is time barred inasmuch as the same has been filed beyond the stipulated period of five years of death of his father. This Court also finds that the petitioner had been sitting idle and instead his mother had approached this Court by filing a writ petition bearing CWJC No. 11647 of 2018, for payment of salary of her husband and for her appointment on compassionate ground. However, a co-ordinate Bench of this Court, vide order dated 26.10.2018, had only directed the authorities to consider the claim of the mother of the petitioner with regard to payment of arrears of salary of her husband, hence the petitioner has got no case at all, especially at this moment of time, when considerable time, i.e. about 16 years have lapsed since the death of the father of the petitioner.

6. It is a trite law that if any application for compassionate appointment 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 the present writ petition is fit to be dismissed not only on the ground of delay and laches, but also on merits, inasmuch as the petitioner is not entitled to any relief after a lapse of considerable time, i.e. about 16 years of the death of his father, in view of the well settled principle of law to the effect that 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 sole bread winner and not to reserving a job for one of the



dependents. Nonetheless, compassionate appointment cannot be claimed as a matter of right after lapse of so many years.

8. Having regard to the facts and circumstances of the case and for the foregoing reasons, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.05.2024
Transmission Date	NA

