

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.177 of 2024

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Gopi Raman Mishra Son of Late Naresh Mishra, Resident of Village-Darhar,
Ward no.12, P.O.- Laheria Sarai, P.S.- Bahadurpur, District -Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director of Health Department, Bihar, Patna.
2. The Deputy Director of Health Department, Bihar, Patna.
3. The Civil Surgeon, Madhubani.
4. The District Magistrate, Madhubani- cum - the Chairman of Compassionate Appointment Committee, Madhubani.
5. The In-charge Medical Officer, Ghoghardiha under District- Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ram Narayan Mahto, Adv.
For the Respondent/s : Mr.Kinkar Kumar (SC- 9)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 22-02-2024

1. The present writ petition has been filed for quashing the order contained in Memo dated 06.11.2019, whereby and whereunder the case of the petitioner for appointment on compassionate ground has been rejected, being time barred, as per the provisions contained in Clause-6 of the circular dated 27.04.1995, issued by the Personnel and Administrative Reforms Department, (At present, General Administration Department), Government of Bihar, Patna.

2. The brief facts of the case, according to the petitioner, are that the father of the petitioner had died in harness on account of him having met with an accident on 04.12.2011,



whereafter the mother of the petitioner namely, Netu Devi had filed a representation before the In-charge, Medical Officer, Ghoghardiha on 25.03.2016, as also had filed a representation on 10.06.2016, with regard to grant of pension and compassionate employment. The petitioner is stated to have filed a representation on 06.05.2017, before the Civil Surgeon, Madhubani, for redressal of his grievances and finally the petitioner had filed appropriate application in the requisite format, for grant of compassionate employment only on 19.09.2019. Thereafter, a meeting of the Compassionate Employment Committee was held on 19.10.2019, under the Chairmanship of the District Magistrate, Madhubani, however, the case of the petitioner for grant of compassion employment has been rejected by Memo dated 06.11.2019.

3. The learned counsel for the petitioner has submitted that the case of the petitioner for compassionate employment has been rejected only on the ground that he had not filed appropriate application for compassionate employment within the prescribed time limit, however it is submitted that the petitioner had filed representations in the year, 2016 and 2017, within the prescribed time limit, however the same were not placed before the appropriate authorities leading to rejection of



the case of the petitioner on account of being time barred, hence it is submitted that a sympathetic view be taken and the petitioner be granted compassionate employment.

4. Per contra, the learned counsel for the respondents has submitted, by referring to the counter affidavit filed in the present case that the present writ petition is barred by delay and laches, inasmuch as though the order of rejection was passed on 06.11.2019, however the present writ petition has been filed belatedly only in the month of January, 2024, i.e. after a lapse of about more than 4 years.

5. It is further submitted that though the father of the petitioner had died on 04.12.2011, however the petitioner had submitted application for appointment on compassionate ground only on 09.07.2018, i.e. after lapse of the prescribed period of 5 years, as is mandated in the circular issued by the Personnel and Administrative Reforms Department dated 27.04.1995, in the following terms:-

“अनुकम्पा के आधार पर आश्रित के द्वारा नियुक्ति हेतु आवेदन-पत्र समर्पित करने की समय-सीमा मृत सरकारी सेवक की मृत्यु की तिथि से 5 वर्ष तक ही रहेगी।”

6. Thus, it is submitted that the case of the petitioner for grant of compassionate employment cannot be considered at this belated stage, especially since the petitioner has admittedly filed



application for appointment on compassionate ground after expiry of the prescribed time limit of 5 years for filing such an application, hence the present writ petition is fit to be dismissed.

7. I have heard the learned counsel for the parties and perused the materials available on record. This Court finds that the time limit prescribed for filing an application for appointment on compassionate ground as per the aforesaid circular dated 27.04.1995 is 5 years, however the petitioner has filed the application for appointment on compassionate ground only on 09.07.2018, as is apparent from Annexure-R3 to 5/A, appended to the counter affidavit filed in the present case, i.e. after a lapse of more than 6 ½ years, thus this Court finds that the claim of the petitioner for grant of compassionate employment has been rightly rejected, being time barred.

8. In any view of the matter, now 12 years have lapsed since the date of death of the father of the petitioner, hence at this juncture, if any application of the petitioner is entertained after such a long delay, not only existing vacancies may be filled up by regular appointment but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependant of the deceased employees may crop up, thus 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 dependants. 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 vs. The State of Haryana and Ors.***, reported in ***(1994) 4 SCC 138***, paragraph no. 6 whereof, is reproduced hereinbelow:-

“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.”

9. At this juncture, it would be apt to refer to yet another judgment rendered by the Hon'ble Apex Court in the case of ***Central Coalfields Limited and Others vs. Parden Oraon***, reported in ***2021 SCC Online SC 299***, paragraphs no. 8 and 9 whereof, are reproduced hereinbelow:-

“8. The whole object of granting compassionate appointment is to enable the family to tide over the sudden crisis which arises due to the death of



the sole breadwinner. The mere death of an employee in harness does not entitle his family to such source of livelihood. The authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that the job is offered to the eligible member of the family. It was further asseverated in the said judgment that compassionate employment cannot be granted after a lapse of reasonable period as the consideration of such employment is not a vested right which can be exercised at any time in the future. It was further held that the object of compassionate appointment is to enable the family to get over the financial crisis that it faces at the time of the death of sole breadwinner, compassionate appointment cannot be claimed or offered after a significant lapse of time and after the crisis is over.

9. We are in agreement with the High Court that the reasons given by the employer for denying compassionate appointment to the Respondent's son are not justified. There is no bar in the National Coal Wage Agreement for appointment of the son of an employee who has suffered civil death. In addition, merely because the respondent is working, her son cannot be denied compassionate appointment as per the relevant



clauses of the National Coal Wage Agreement. However, the Respondent's husband is missing since 2002. Two sons of the Respondent who are the dependents of her husband as per the records, are also shown as dependents of the Respondent. It cannot be said that there was any financial crisis created immediately after Respondent's husband went missing in view of the employment of the Respondent. Though the reasons given by the employer to deny the relief sought by the Respondent are not sustainable, we are convinced that the Respondent's son cannot be given compassionate appointment at this point of time. The application for compassionate appointment of the son was filed by the Respondent in the year 2013 which is more than 10 years after the Respondent's husband had gone missing. As the object of compassionate appointment is for providing immediate succour to the family of a deceased employee, the Respondent's son is not entitled for compassionate appointment after the passage of a long period of time since his father has gone missing.

10. Therefore, considering the object of the scheme of compassionate employment, which is to enable the bereaved family to tide over the immediate financial crisis, which it faces on account of sudden death of the breadwinner, no relief can be



granted to the petitioner at this juncture, inasmuch as compassionate employment is neither a vested right nor an alternate mode of employment.

11. Having regard to the facts and circumstances of the case, 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	14.03.2024
Transmission Date	NA

