

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.10 of 2023

In

Civil Writ Jurisdiction Case No.1442 of 2021

Abhishek Kumar Tanti, aged about 31 years, Son of Late Rameshwar Tanti,
Resident of Village and Post Office- Dahiya, Police Station- Bhagwanpur,
District- Begusarai.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary-cum- the Principal Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer Flood Control and Water Drainage Department, Gopalganj.
4. The Superintending Engineer, Flood Control and Water Drainage Circle, Gopalganj.
5. The Executive Engineer, Flood Control Division, Siwan.
6. The District Level Compassionate Appointment Committee through its Chairman, the District Magistrate, Siwan.
7. The District Magistrate, Siwan.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Umesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Anjani Kumar, AAG-4
Mr.Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 08-10-2025

The present intra-court appeal has been filed by the appellant against the judgment dated 24.01.2022 passed by the learned Single Judge in CWJC No. 1442 of 2021, whereby the writ petitioner (appellant herein) was held to be not entitled for compassionate appointment.



2. The facts, in brief, are that the father of the appellant died in harness on 22.02.2006 while he was posted as an Accounts Clerk in the Flood Control Division, Siwan. The father of the appellant had performed two marriages and the appellant is the son of the second wife. After the death of deceased employee (appellant's father), his first wife, Urmila Devi, filed CWJC No. 14839 of 2006 seeking pensionary benefits of her deceased husband, in which the present appellant was a party respondent. The said writ petition was allowed on 05.11.2007 with a direction to the respondents pay the family pension to Urmila Devi and also to consider the application to be made by the son of the deceased employee within two months for compassionate appointment.

3. It is the further case of the appellant that he had filed a contempt application, bearing MJC No. 2994 of 2011, against non-compliance of the order of compassionate appointment dated 05.11.2007, which was disposed of by this Court on 05.09.2011. Thereafter, the claim of the appellant was rejected by the District Compassionate Appointment Committee, Siwan, vide order dated 06.11.2012, stating that since the government employee had married a second lady during the lifetime of his first wife, the children born out of the



wedlock of the second marriage, are not entitled to compassionate appointment.

4. Being aggrieved with the aforesaid order dated 06.11.2012, the appellant preferred CWJC No. 1442 of 2021 before the learned Single Judge.

5. The learned Single Judge, upon consideration of the materials on record, dismissed the writ petition on 24.01.2022 on the ground of delay and laches. Aggrieved thereby, the present appeal has been preferred by the writ petitioner.

6. Learned counsel for the appellant submits that the appellant had applied for his compassionate appointment well within time and was representing his claim before the concerned authorities repeatedly, but, the same was rejected on 06.11.2012. He further submits that the claim of the appellant ought to have been considered in the light of the decision of the Hon'ble Full Bench of this Court in ***Bihar State Electricity Board & Ors. v. Chandrashekhar Paswan & Ors.*** reported in ***2019 SCC OnLine Pat 562***, which was overlooked by the learned Single Judge while dismissing the writ petition on the ground of delay and laches.

7. The learned counsel for the respondents submitted that the order of the learned Single Judge requires no



interference, and the learned Single judge had rightly pronounced the judgment after considering the facts and circumstances of the present the case.

8. The learned Single Judge after going through the facts had observed the following. Paragraph 4 of the impugned judgment is reproduced below:

*“4. The object of compassionate appointment is to meet immediate harness in the family. Petitioner's family survived from 22.02.2006 to 06.11.2012 (memo No. 1565) and even thereafter till date. The petitioner seems to be a fence sitter. After decision rendered by this Court cited supra, he has opened his eyes in presenting the present petition. Moreover, Apex Court held that compassionate appointment is not a fundamental right. Apex Court in the case of **State of Jammu and Kashmir V/s. R.K.Zalpuri** and others reported in **AIR 2016 SC 3006, Paragraph-20** laid down certain principles to entertain petition under Article 226 of the Constitution. One of the principle is delay and laches. Therefore, on the ground of delay and laches petitioner has not made out prima facie case to entertain the present petition. In the light of these facts and circumstances, petitioner is not entitled to relief sought in the present petition.”*



9. The learned counsel for the appellant relies upon *Bihar State Electricity Board & Ors. v. Chandrashekhar Paswan & Ors.* reported in *2019 SCC OnLine Pat 562*, whereby a full bench of this court has held that the children of the second wife are to be considered for appointment on the basis of compassionate grounds. This judgment, however, finds no application here, as the present case has to be viewed considering the fact that approximately 19 years have passed since the death of the appellant's father. The object of such compassionate appointment scheme is to meet immediate hardship in the family, and here the appellant's family continues to survive initially from 2006 to 2012, and further till date.

10. In our view, compassionate appointment is not a vested right which can be claimed by the appellant. The purpose of such scheme is that family of the deceased may not go through financial hardship. In this case, after the death of the appellant's father approximately 19 years have passed, and the family of appellant continues to survive. Thus, the object of the scheme itself is frustrated in the present case.

11. Considering the findings given by the learned Single Judge, the facts of the case and the discussions made above, we do not find any perversity in the order of the learned



Single Judge.

12. Accordingly, we do not find any reason to interfere with the order of the learned Single Judge and the present appeal stands dismissed.

13. Interlocutory application(s), if any, shall also stand disposed of.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.10.2025
Transmission Date	

