

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.44 of 2025
In
Civil Writ Jurisdiction Case No.11026 of 2019

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, Department of Finance, Government of Bihar, Old Secretariat, Patna.
 3. The Principal Secretary, Department of General Administration, Government of Bihar, Old Secretariat, Patna.
 4. The Principal Secretary, Department of Education, New Secretariat, Government of Bihar, Patna.
 5. The District Compassionate Committee Patna through its Chairman cum District Magistrate, Muzaffarpur.
 6. The District Magistrate cum Collector, Muzaffarpur.
 7. The Senior Deputy Collector, Establishment, Muzaffarpur.
 8. The District Employment Officer, Muzaffarpur.
 9. The District Education Officer, Muzaffarpur.
 10. The District Programme Officer, Establishment, Muzaffarpur.

... .. Appellant/s

Versus

1. Sunil Kumar Singh S/o Ram Sagar Singh and Late Subhadra Devi, R/o Village and PO-Maheshwara Baruari, PS-Gaighat and District-Muzaffarpur.
2. Sushant Kumar, S/o Late Jai Kishore Singh @ Late Jai Kishore Sinha, R/o Village and PO-Hasna, PS-Gaighat and District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. P.K. Shahi, AG Mrs. Binita Singh, SC-28 Mr.Nishant Kumar Jha (Ac To Sc 28)
For the Respondent/s	:	Mr. Amit Narayan, Adv Ms. Vandna Kumari, Adv

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)



7 18-09-2025

Re: I.A. No. 02 of 2025.

There is a delay of about 169 days in filing LPA No. 44 of 2025. Learned counsel for the Respondent Nos. 1 and 2 have filed counter affidavit in sub-para (iv) of para 3, they have taken a serious objection for condonation of delay, it reads as under:-

“That statement in paragraph 4 of the limitation petition is denied and same is false and subject to contempt action against the District Education Officer, Muzaffarpur. It is relevant to state that the respondents have already informed the District Magistrate, Muzaffarpur, District Education Officer, Muzaffarpur and District Programme Officer (Establishment) Muzaffarpur through written representation on 01.07.2024 along with copy of the impugned order. Thereafter, contempt application bearing MJC No. 07.08.2024 has been filed in this Hon’ble Court for disobedience of the impugned order. Hence, the statement that the appellants got aware of the impugned order on 07.09.2024 is false and leads to gross contempt.”

2. In support of such statement, he is relying on Annexure-R/1, some acknowledgment issued by the office of the District Magistrate, Muzaffarpur. It is to be noted that representation was stated to have been filed on 01.07.2024, as is



evident from Annexure R/1. It was in the office of the District Magistrate, Muzaffarpur. There may be a lack of communication among the officials of the District Magistrate, Muzaffarpur that cannot be taken note of seriously that the appellants have mislead this Court or made any false statement as contended by the respondents in their counter affidavit cited (supra). Accordingly, the same is ignored. Having regard to the fact that there is a delay of about 169 days in filing LPA read with the reasons, we condone 169 days delay. Accordingly, I.A. No. 02 of 2025 stands allowed.

3. With the consent of the respective counsels for the parties, we have taken up the matter for final disposal. Respondents Sunil Kumar Singh and Sushant Kumar were appointed on compassionate ground on 25.10.2008 in the local body. Deceased employees died while they were working in the local bodies. Their claim is that they are entitled to be appointed in the Government Department & not in the local body. In this regard, they invoke remedy before this Court in filing CWJC No. 17953 of 2008 and it was disposed of on 28.01.2010 with certain observation. For non-compliance by the concerned respondents, they have invoked remedy of filing MJC No. 6314 of 2013 and it was disposed of on 16.09.2014 in the light of



certain development. They have slept over the matter for about two years seven months in approaching the concerned authority to the extent of demanding their claim & they had submitted representation on 16.03.2017. The same was not materialized. Instead of filing fresh writ petition seeking direction to consider their representation dated 16.03.2017, they have invoked once again MJC contempt and it was numbered as MJC No. 2762 of 2018 and it was dropped on 27.02.2019. Such remedy was without any liberty granted in earlier contempt petition. Thereafter, they have filed CWJC No. 11026 of 2019 and it was disposed of on 24.06.2024 in favour of them. Hence, the present LPA on behalf of the State.

4. The learned Single Judge has failed to appreciate that there is no policy decision or any statutory rules which provides alternative appointment of compassionate appointment who were appointed in Panchayat or entitled to be transferred in Government Department or legal heir of Panchayat employee to be appointed on compassionate ground in the Government department. That apart, grievance of the petitioners with reference to disposal of CWJC No. 17953 of 2008 decided on 28.01.2010 read with MJC No. 6314 of 2013 decided on 16.09.2014, they have slept over the matter for about two years



seven months in filing representation on 16.03.2017. In other words, they are discharging the duties of the post in which they have been appointed in the local body from 25.10.2008. In this backdrop, the respondents are keep on harping their grievance from 2010 to 2019 in the absence of any statutory provision or vested right with the respondents. Having regard to the conduct of the petitioners, the learned Single Judge has not appreciated the aforementioned factual aspects. Moreover compassionate appointment is a social legislation & no vested right is available & it is not a fundamental right as held by various Courts. Further once appointed on compassionate, such person has no right to ask for alternative remedy, like Respondents are entitle to appointment in Government Department.

5. Having regard to the conduct of the respondents that they had cause of action in the year 2008 insofar as assailing their appointment in the local body and seeking a direction to the concerned authority to appoint them in Government Department with reference to any policy decision or relevant rules of recruitment, they did not made out a case. In the light of these facts and circumstances, the State-appellants have made out a case so as to interfere with the order of learned Single Judge dated 24.06.2024 passed in CWJC No. 11026 of



2019. Hence, CWJC No. 11026 of 2019 stands dismissed & LPA is allowed. Pending Interlocutory Application(s), if any, stands disposed of.

(P. B. Bajanthri, ACJ)

(Alok Kumar Sinha, J)

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