

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5911 of 2017

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Anand Kumar son of Sri Jagdish Singh resident of village - Raghavpur, Post
Office - Bihta, Police Station - Bihta, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Health Services, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Government of Bihar, Patna.
4. The District Magistrate, Aurangabad.
5. The Civil Surgeon cum the Chief Medical Officer, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Advocate
For the State : Mr. Nagendra Pd. Yadav (SC-23)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 11-07-2025

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for the
following relief/s:-

*“I. For quashing of the order dated
16.07.2016 contained in Memo No.313
(annexed as Annexure-15) issued under the
signature of District Magistrate,
Aurangabad whereby the claim of the
petitioner for appointment on the basis of
compassionate ground to the post of Grade
III or IV in the Health Department has*



been rejected on the ground that the mother of the petitioner had died in the year 1989 i.e. 25 years ago as to when the petitioner filed a form of compassionate appointment in the year 2016 as contained in Annexure-15 to this writ petition.

II. For commanding the respondents to appoint the petitioner on the basis of compassionate ground to the post of Grade III or IV in Health Department.

III. For any other relief or reliefs for which the petitioner is entitled under law as well as on facts of this writ application.”

3. Learned counsel for the petitioner submits that the mother of the petitioner died on 14.08.1989 at Tara Hospital, Patna leaving behind his son namely, Anand Kumar (present petitioner) aged about two years and her daughter namely, Smriti Kumari aged about six days. Counsel submits that the petitioner was born on 26.08.1987 and at the time of death, petitioner's mother was working on the post of ANM at Bandhawan Health Centre, Hasapura Block, District-Aurangabad. Counsel submits that at the time of death of petitioner's mother, age of petitioner was two years, but after completion of his age of majority, he applied the form of compassionate appointment on the post of Grade III or IV in



Health Department in the year 2016. Counsel submits that the life of petitioner's childhood was spent in too much of poverty, scarcity and needful and he was completely dependable upon his maternal uncle. His father was a totally irresponsible person because he was addicted to wine and *ganja* etc. Counsel further submits that in the year 1989 by virtue of Case No.16 of 1990, an application was granted in favour of the maternal uncle of the petitioner by which he was appointed as Guardian of the minors for the person and property under the Guardians & Wards Act, 1890. Counsel submits that as per the hospital records, the date of birth of the petitioner was 26.08.1987. Counsel submits that after repeated efforts by the petitioner, a reasoned order has been passed in which claim of the petitioner for compassionate appointment has been rejected *vide* order dated 16.07.2016 contained in Memo No.313 (annexed as Annexure-15) issued under the signature of District Magistrate, Aurangabad. Thereafter, petitioner has moved before this Hon'ble Court and filed the present writ petition.

4. Learned counsel for the petitioner by virtue of rejoinder to the counter affidavit has added series of documents by which he has filed representations/applications in the year 2005, 2006, 2011, 2013 & 2016 for compassionate appointment



before the In-charge Medical Officer, Haspura, Aurangabad. But even then, his case has been rejected by the District Magistrate which is absolutely illegal and therefore, the ground for rejection that the mother of the petitioner died in 1989 and after 25 years, he has filed application in the year 2016 is not correct.

5. Learned counsel for the State on the other hand strongly opposes the prayer and submits that the present writ petition is not maintainable due to delay and laches. He submits that it is admitted that the date of birth of petitioner is 26.08.1987 and his mother died in 1989 and he become major in the year 2005. But never filed any application in requisite form for compassionate appointment. Simple application had been submitted in the years 2005, 2006, 2011, 2013 & 2016 respectively. Counsel submits that taking that compassionate appointment is not a matter of right. He submits that the compassionate appointment is a right which is available to provide the immediate need of the family and cannot be granted as a matter of right. Counsel further submits that in the year 2005, the petitioner become major and not filed application for compassionate appointment in prescribed proforma and himself sat over the matter and thereafter, 25 years of death, for the first time in 2016 has filed application for compassionate



appointment in prescribed proforma. Counsel submits that for the sake of argument even if it is accepted that he has filed application for the first time he become major in 2005 and department has not pay heed on his representation, then he ought to move before this Hon'ble Court. But he again sat over for 11 years and then moved before this Hon'ble Court in 2017, when his first time proforma filed after 25 years of death has been rejected. Counsel further submits that in any view of the matter it is the petitioner himself responsible for non-consideration as he has filed application with extreme delay and latches.

6. In the light of the submissions made, it transpires to this Court that the petitioner has not filed any of his application since 2005 to 2016 in prescribed proforma for appointment on compassionate ground, though *vide* Annexure-17, it transpires to this Court that he has filed series of applications but when the department has not taken any action then he ought to move before this Hon'ble Court. Petitioner has made delay of 11 years and subsequently, in the year 2016 he has filed application for compassionate appointment in prescribed proforma and then moved before this Court. During pendency of the present writ petition, further 8 years have been



lapsed.

7. In the light of the present facts and circumstances, considering that the petitioner himself caused delay and latches, and that compassionate appointment is not a matter of right, this Court is not inclined to interfere in the matter. Hence, this writ petition is hereby dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	17/07/2025
Transmission Date	NA

