

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.22297 of 2019**

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Jyoti Kumari, W/o Late Prem Prasad Singh, R/o Vikramshila Nagar, Ward No.6, Kahalgaon, P.S.- Kahalgaon, District- Bhagalpur- 813203.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Water Resources Department, Govt. of Bihar, Sinchai Bhawan, Patna.
2. The Chief Engineer, Water Resources Department, Bhagalpur.
3. The Superintending Engineer, Design, Planning and Monitoring Circle, Irrigation Department, Bhagalpur.
4. The Executive Engineer, Irrigation Division No.1 (Design), Bhagalpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate  
For the Respondent/s : Mr. Ranjan Prakash, AC to GA-2

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**

**Date : 02-07-2025**

Heard the parties.

2. The petitioner is aggrieved with the letter no.446 dated 17.11.2018, whereby the respondent no.3 has intimated the respondent no.4 that the claim of the petitioner for her appointment on compassionate ground came to be rejected for the only reason that the petitioner has submitted application for her compassionate appointment on 27.03.2015; after more than five years of the death of her husband on 31.07.2009.

3. Without taking this Court through various annexures, learned Advocate for the petitioner straightway drew the attention of this Court to Annexure-7 of the writ petition i.e.



the application for her appointment on compassionate ground, which appears to have been received in the office of the respondent on 22.12.2010; which fact has also been admitted in the counter affidavit filed on behalf of the respondents no.1 to 4.

4. Mr. Jha, learned Advocate for the petitioner submitted that, *prima facie*, the impugned order is based upon an incorrect facts, inasmuch as this could not be the case of the respondent(s) that the application for compassionate appointment was not received within time rather the application is said to be not in prescribed format. Had the application was not under the prescribed format, it was the respondent authorities, who should assist the widow (petitioner) to file application in a prescribed format. Mere technicalities must not defeat substantial justice to a widow. On receipt of the application afore-noted, the petitioner was also directed to bring the succession certificate and, immediately, the petitioner filed Succession Case No.40/11; however, the succession case came to be allowed in favour of the petitioner on 07.06.2018. Immediately, after receipt of the judgment in her favour in the succession case, the petitioner approached before the authorities concerned and submitted the same. It has also been apprised to this Court that on account of causing death of the erstwhile



employee, the petitioner had also been made accused, which led to initiation of Sessions Trial No.112/2010. The petitioner was put to face the rigors of trial; however, subsequently she acquitted vide judgment dated 10.06.2019, the copy of which has also been placed on record as Annexure-25 to the writ petition. In the aforesaid premise, learned Advocate for the petitioner thus contended that the reason for rejection as mentioned in the impugned order that application for compassionate appointment of the petitioner came to be filed after a delay of five years, is not sustainable and fit to be set aside.

5. On the other hand, learned Advocate for the respondents no. 1 to 4 while refuting the contention of the petitioner has contended that though the application for appointment on compassionate ground was received in the office on 22.12.2010, but it was not under an appropriate prescribed performa; moreover, the petitioner has also failed to submit succession certificate, inasmuch as in the service book, the name of the petitioner does not find figure as wife or dependent. Despite several correspondences made to the petitioner, for the first time, she submitted her application on prescribed format along with the succession certificate on



27.03.2015, much beyond five years; hence, it came to be rejected.

6. It would be pertinent to state here that the Hon'ble Supreme Court while cautioning the State and its authorities in the case of **Hindustan Sugar Mills v. State of Rajasthan and Others [AIR 1981 SC 1681]** has advised the respondents to refrain from obstructing lawful claims on technicalities.

7. It would be worth benefiting to encapsulate relevant extract of the afore-noted judgment.

*“We hopefully expect that the Central Government will not try to shirk its legal obligation by resorting to any legal technicalities, for we maintain that in a democratic society governed by the rule of law, it is the duty of the State to do what is fair and just to the citizen and the state should not seek to defeat the legitimate claim of the citizen by adopting a legalistic attitude but should do what fairness and justice demand .”*

8. Considering the submissions set forth by the learned Advocate for the respondents and taking note of the fact noted hereinabove that the petitioner had already filed her application long back on 22.12.2010, if there was any shortcomings and requirement of any documents or that was required to file in a prescribed format, it is the respondent authorities, who should assist the petitioner-widow. Moreover,



in case, the petitioner had been lacking eligibility on that point of time, her claim could have been rejected at that point of time itself; however, after filing of the succession certificate and on being acquitted of the charge(s) of causing death of her husband, there is no impediment to consider the claim of the petitioner. Accordingly, the impugned order as contained in letter no.446 dated 17.11.2018 is held to be unsustainable and without application of mind; hence, the same is hereby set aside.

9. The writ petition stands allowed.

10. The matter is relegated to the respondent no.2, the Chief Engineer, Water Resources Department, Bhagalpur, to consider the application of the petitioner for her appointment on compassionate ground, preferably within a period of four months from today and pass a reasoned and speaking order, in accordance with law.

**(Harish Kumar, J)**

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| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 04-07-2025 |
| Transmission Date |            |

