

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22878 of 2019

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Nishant Kumar, Son of Late Perma Nand, Resident of Village- Sattar, P.S.-
Maner, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Works Department, Govt. of Bihar, Bihar, Patna.
2. The District Officer cum Chairman, District Level Compassionate Appointment Committee, Patna, District- Patna.
3. The Additional Collector (Special Program Patna), District- Patna.
4. The Deputy Collector, Establish Patna, District- Patna.
5. The District Welfare Officer, Patna, District- Patna.
6. The Engineer in Chief Rural Works Department, Govt. of Bihar, Patna, District- Patna.
7. The Superintending Engineer, Rural Works Special Division No-1 Paliganj Patna, District- Patna.
8. The Executive Engineer, Rural Works Department, Paliganj, Patna District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar, Advocate
For the Respondent/s	:	Mr. Rakesh Kumar Ranjan, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 02-07-2025 Heard the parties.

2. The petitioner is aggrieved with the order dated 30.07.2019 passed by the District Magistrate cum Chairman District level Compassionate Appointment Committee whereby the claim of the petitioner came to be rejected on account of his application being found time barred.

3. Mr. Arvind Kumar, learned Advocate for the petitioner contended that the father of the petitioner died in



harness on 18.06.2006 while working as a peon in Rural Works Department, Government of Bihar. The petitioner immediately filed an appropriate application for his appointment on compassionate ground. To support the aforesaid contention, attention of this Court has been drawn to Annexure 6 to the writ petition and referring thereto it is submitted that the concerned office itself admitted that the application for compassionate appointment was filed within six months of the death of the deceased employee, however, the same was kept pending on account of pendency of C.W.J.C. No. 12883 of 2009, filed by the mother of the petitioner for grant of death-cum-retiral benefits.

4. To clarify further, learned Advocate for the petitioner next contended that the mother of the petitioner was the second wife of the erstwhile employee and thus, some dispute has arisen, which led to filing of C.W.J.C. No. 12883 of 2009. However, the Court on being satisfied that the marriage of the mother of the petitioner was solemnized after the death of the first wife, directed for payment of all the death-cum-retiral benefit vide order dated 25.09.2014. It is only thereafter, the application of the petitioner sent to the District Compassionate Committee alongwith the recommendation. There had never



been any delay or laches on the part of the petitioner, hence, for the reasons afore-noted, he cannot be made to suffer.

5. *Per contra* learned Advocate for the State submitted that admittedly the father of the petitioner died on 18.06.2006, whereas the application for appointment on compassionate ground came to be filed on 19.05.2015, which was sent to the District Compassionate Appointment Committee. However, on being found that the same is filed after a delay of five years, it has rightly been rejected in terms of the departmental letter No. 2822 dated 27.04.1995 which prescribes a period of five years for filing application for compassionate appointment. So far the contention of the petitioner that he filed application within six months of the death of the erstwhile employee, does not find merit as the alleged application was neither in the prescribed format nor with the signature of dependent or his mother.

6. Having heard the learned Advocate for the respective parties and on perusal of the materials available on record, specially the impugned order, it clearly appears that the contention of the petitioner of filing application for compassionate appointment within six months of the death of the deceased employee is of no help for the petitioner, as the



application was without any signature of the dependent or any person on his behalf. Moreover, the deceased died long back in the year 2006 and almost 19 years have been lapsed. The very object of compassionate appointment is to give immediate succor to the bereaved family, whose bread earner died in harness leaving the entire family on penury/destitution.

7. The materials available on record clearly suggest that the entire family have been substantial means to survive for almost for two decades, any direction for compassionate appointment, after a lapse of 19 years would certainly be not in conformity with its object. In this regard, reference may be taken to a decision rendered by the Apex Court in the case of ***State of Jammu & Kashmir & Ors. vs. Sajjad Ahmed Mir, (2006) 5 SCC 766*** wherein the Court noted as follows:-

“The Compassionate appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the



breadwinner, the family survived and substantial period is over; there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14."

8. In view of the aforesaid facts and the settled legal position, this Court does not find any merit in the writ petition, accordingly the same stands dismissed.

(Harish Kumar, J)

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