

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23903 of 2019

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Rahul Kumar, Son of Late Shatrudhan Mandal, Resident of Village Gehumi,
P.O.- Darbhanga, P.S.- Darbhanga Sadar, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Principal Secretary, Department of Road Construction, Visheshwarraiya Bhawan, Government of Bihar, New Secretariat, Bihar, Patna.
3. The Secretary, Department of Road Construction, Visheshwarraiya Bhawan, Government of Bihar, New Secretariat, Bihar, Patna.
4. The Engineer-in-Chief, Department of Road Construction, Visheshwarraiya Bhawan, Government of Bihar, New Secretariat, Bihar, Patna.
5. The District Magistrate, Darbhanga.
6. The Superitendent Engineer, Road Construction Department, Darbhanga.
7. The Executive Engineer, Road Construction Department, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ugranath Mallik, Adv.
For the Respondent/s : Mr. Uday Bhan Singh, AC to GP-19

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 09-07-2025

Heard the parties.

2. The petitioner is aggrieved with the order as contained in Memo No. 158 dated 30.01.2018 to the extent it relates to the petitioner, whereby his claim for appointment on compassionate ground has been rejected by the District Compassionate Appointment Committee, headed by the District Magistrate, Darbhanga.

3. The facts of the case are in narrow compass; the father of the petitioner died in harness while working as a Road Labour on 29.12.2006. It is the case of the petitioner that on



10.08.2011 he submitted application for his compassionate appointment. Subsequent thereto, some documents were asked for, which was also submitted by the petitioner on 28.08.2013. The Executive Engineer, Road Construction Department also sought an opinion from the Standing Counsel of the Government of Bihar and it has been opined that the application of the petitioner has been filed within time of five years. Notwithstanding the aforesaid fact, the District Compassionate Committee rejected the claim of the petitioner on the ground of delay in filing of the application, which is wholly illegal, arbitrary and based on incorrect facts, is the thrust of the challenge.

4. Mr. Ugranath Mallik, learned Advocate for the petitioner while assailing the impugned order has submitted that it is the admitted position that the date on which the petitioner filed application for appointment on compassionate ground, he was aged about 14 years, but the date on which the District Compassionate Committee has considered his case, he had already attained majority; moreover, the reason which has been assigned by the District Compassionate Committee is factually incorrect and on this ground alone, the same ought to be set aside.

5. Reliance has also been placed on a decision



rendered by the Apex Court in the case of *Syed Khadim Hussain vs. The State of Bihar & Ors., 2006 (9) SCC 195*. Referring thereto he submitted that while allowing the appeal, the Hon'ble Supreme Court has observed that the application for compassionate appointment preferred by the widow of the erstwhile employee was rejected mainly because it was not in prescribed format and thereafter the appellant's son had applied for compassionate appointment, but his application was rejected on the ground that at the time of filing of the application, he was aged around 13 years. The Court set aside the order of rejection and held the rejection of appellant's application was not justified; as at the time of rejection, appellant had attained above 18 years of age.

6. On the other hand, Mr. Uday Bhan Singh, learned Advocate for the State submitted that the facts are admitted to the extent that the date on which the application was filed by the petitioner for appointment on compassionate ground, he was only 14 years of age and thus, not eligible. Referring to letter no. 2822 dated 27.04.1995 he submitted that the dependant of a deceased employee is mandatorily required to file application for compassionate appointment within five years of the death of the deceased employee. Since the petitioner was not eligible for the post and only aged about 14 years, in no circumstances the



application filed by the petitioner shall be deemed to be a valid application filed by an eligible person.

7. Having heard the learned Advocate for the respective parties and considering the materials available on record, primarily this Court reminds that the very object of the compassionate appointment is to provide immediate succor to the bereaved family, whose bread earner died in harness, leaving behind the family in complete penury and destitution.

8. In the case in hand, the father of the petitioner died long back in the year 2006; moreover, the application for compassionate appointment is to be made immediately upon death/incapacitation and in any case during reasonable period as prescribed under the scheme or the rules and regulation, or else a presumption to be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over. Reliance, in this regard, may be taken to a decision rendered by the Apex Court in the case of ***Eastern Coalfields Limited Vs. Anil Badyakar & Ors., (2009) 13 SCC 112.***

9. “The idea of compassionate appointment is not to provide for endless compassion” [vide ***I.G.(Karmik) and others***



vs. Prahalad Mani. Tripathi; (2007) 6 SCC 162]. The facts of the case is admitted that the period which was prescribed for filing of the application, the petitioner had not even acquired eligibility; as he was only 14 years and thus not eligible for any of the post offered by District Compassionate Committee. It would also be relevant here to refer a decision rendered by the Apex Court in the case of **State of Jammu & Kashmir & Ors. vs. Sajjad Ahmed Mir, (2006) 5 SCC 766**. The relevant extract is encapsulated hereunder :-

“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.”

emphasis supplied

10. So far the decision upon which reliance has been placed by the petitioner with utmost regard, it does not come to



rescue of the petitioner's case, for the reason that in the said case the widow of the petitioner had filed the application within the prescribed period and her claim was rejected on account of the application being filed not in the prescribed format. Later on, when the application was filed by her son, his claim was rejected, despite the fact that by that point of time he acquired the eligibility, besides the order has been passed treating it in peculiar facts and circumstances. The Hon'ble Supreme Court also noticed that there was no specific provision as to what should be done in a case where the dependents were minors. There was a gross delay of 10 years on the part of the respondents in considering the application also.

11. In the case in hand the claim of the petitioner came to be rejected in the light of the Government letter no. 2822 dated 27.04.1995, which specifically prescribes the time limit for filing application for appointment on compassionate ground. Further, in the opinion of this Court any application filed by the dependent would always mean the dependent who is having the eligibility to be appointed on compassionate ground and not otherwise. It would also be worth mentioning here that the General Administration Department earlier in its letter No. 4735 dated 19.05.1992 clarified that in case any application is filed by the dependents, who at the relevant time were minor and



attained their majority after so many years, their cases are not fit to be considered.

12. On all these aforesaid reason, this Court does not find any merit in the writ petition; accordingly, the same stands dismissed.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
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