

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.401 of 2025

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Uttam Kumar Son of Late Awdhesh Kumar @ Awdhesh Kumar Sharma
Resident of Ram Bichar Niwas, Mohalla- Chowa Bagh, Kasim Bazar, P.O.-
Munger, P.S.- Kasim Bazar, District- Munger, Pin- 811201.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Primary Education Department, Government of Bihar, Patna.
2. The Director, Primary Education Department, Government of Bihar, Patna.
3. The District Magistrate-cum- Chairman of the District Establishment Committee, Jamui.
4. The Deputy Director, Establishment, Jamui.
5. The District Education Officer, Jamui.
6. The Block Development Officer, Khaira, District- Jamui.
7. The Block Education Officer, Khaira, District- Jamui.
8. The Circle Officer, Munger, District- Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Shweta Anand, Adv.
For the Respondent/s : Government Advocate (09)

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

08-07-2025

Heard Ms. Shweta Anand, learned counsel for the petitioner and Mr. Nalin Vilochan Tiwary, learned AC to Government Advocate-09 for the Respondents-State.

2. Learned counsel appearing on behalf of the petitioner submits that the instant writ application has been filed seeking a direction upon the Respondents-Authority to consider the appointment of the petitioner on compassionate ground on the basis of his qualification in light of Government Circular and decisions of this Hon'ble Court, further, for a direction upon



the Respondents-Authority to take decision regarding appointment of the petitioner because the application of compassionate appointment has been kept pending since long back without assigning any reason.

3. Learned counsel for the petitioner submits that father of the petitioner, namely, Awdhesh Kumar @ Awdhesh Kumar Sharma was initially appointed as Assistant Teacher in the year 1995. The father of the petitioner died in harness on 03.06.1999 as would manifest from his death certificate annexed as Annexure-1 to the writ application. It is next submitted that the mother of the petitioner submitted an application to the District Magistrate, Jamui on 15.06.1999 through registered post seeking appointment of her elder son on compassionate ground enclosing his certificate requesting therein to take immediate action on her application as the family in absence of the bread-earner was facing financial plight. It is submitted that thereafter the petitioner also filed an application seeking compassionate appointment before the District Magistrate on 26.06.1999 (Annexure-P/3) along with the required documents. It is next submitted that the mother of the petitioner filed an application dated 20.10.1999 before DEO, Jamui seeking payment of gratuity/family pension and also



requested to take immediate action for appointing her elder son (petitioner herein) on compassionate ground, but no action was taken.

4. It is next submitted that the District Education Officer, Jamui asked the mother of the petitioner to provide family details based on which, the mother of the petitioner filed an application dated 20.12.1999 before the Circle Officer, Munger for issuance of genealogy. Thereafter, the District Magistrate, Jamui again was requested by the mother of the petitioner on 02.11.2001 to appoint her son on compassionate ground who was facing 60 *per cent* disability. It is submitted that despite reminder to the Authorities till 2001, the Authorities sat over the matter and the case of the petitioner for compassionate appointment was not considered.

5. Learned counsel for the petitioner next submits that since the case of the petitioner for compassionate appointment was not considered, hence in the circumstance, the petitioner filed the instant writ application with the aforesaid prayer.

6. Learned State counsel vehemently rebuts the submissions of the learned counsel appearing for the petitioner and submits that the High Court will not come to rescue of a



person who sleeps over his right and knocks the door of the Court at his leisure. It is submitted that the purpose for granting compassionate appointment is to tied over the crisis to which the family has fallen in absence of the bread-earner. It is submitted that compassionate appointment is not a regular appointment but is an exception to Article 14 and 16 of the Constitution of India. It is also submitted that the conduct of the petitioner in approaching the Court after a delay of more than 24 years also disentitled the petitioner from seeking even equitable relief under Article 226 of the Constitution of India. It is next submitted that Article 226 is a discretionary jurisdiction where the High Court can refuse to exercise the jurisdiction on several grounds and one of the grounds definitely is delay. It is next submitted that had the petitioner been in dire need of compassionate appointment, in that event, he would have knocked the door of this Court way back in the year 2001 but then the petitioner approaching this Court in the year 2025 in itself demonstrates that the petitioner was not in need of compassionate appointment rather has been advised to file the instant writ application placing reliance on the orders of this Court and the Hon'ble Apex Court. It is also submitted that the learned counsel for the petitioner relied on an order of the



Hon'ble Supreme Court rendered in the case of **Canara Bank v. Ajithkumar G.K.** reported in **AIR 2025 SC 1232**. It is submitted that no doubt that the claim of **Ajithkumar G.K** was allowed by the High Court which was impugned before the Hon'ble Supreme Court by Canara Bank and the Hon'ble Supreme Court at paragraphs-48 recorded the conclusion of the case and thereafter at para-49, it was recorded as follows:-

“48. Having regard to the foregoing discussion of the predicament faced by the High Court, we cannot hold the impugned order to be entirely unjustified. To the extent it has the relied on Canara Bank (supra), we cannot fault the Division Bench or, for that matter, the Single Bench. The Division Bench, feeling bound by Canara Bank (supra), did not have the occasion to enter into a proper examination of the order of the MD & CEO. It was of the clear impression that the said order was in the teeth of what was held in paragraph 19 by this Court in Canara Bank (supra). However, at the same time, we are of the firm opinion that



notwithstanding Canara Bank (supra), the Division Bench ought not to have overlooked the criterion relating to suitability while directing appointment of the respondent straightaway. To this extent, learned counsel for the appellant is right that the question of suitability was left untouched by Canara Bank (supra) and the appellant ought not to have been made to suffer an order on its appeal having more adverse consequences than the order on the writ petition.

49. In the fitness of things, we have decided to invoke our powers under Article 142 of the Constitution. Another coordinate bench seized of this appeal appears to have observed on 21st May, 2024 that it would consider making a direction for payment of a lumpsum amount to the respondent to-wards full and final settlement and, accordingly, time was granted to the parties to obtain instructions. Though no agreement was reached and whether the



respondent is covered under the scheme of 2005 for lumpsum ex-gratia payment has not been examined by us as well as by the High Court, but bearing in mind the approach of the coordinate bench coupled with the circumstance of hope being generated in the mind of the respondent for appointment based on his success before the High Court, we are satisfied that interest of justice would be sufficiently served if the appellant is directed to make a lumpsum payment of Rs.2.5 lakh to the respondent within a period of 2 (two) months from date and the proceedings be closed. It is ordered, accordingly. We hasten to add that this would be in addition to Rs.50,000/-paid to the respondent in terms of an earlier order of another coordinate bench while is-suing notice.”

7. Learned State counsel submits that in the aforesaid case **Ajithkumar G.K.** who was Respondent had approached the Court in time seeking compassionate appointment but in the present case, the petitioner had



approached the Court after the delay of more than 24 years. As such, the writ petition does not merit any consideration.

8. The Court is in complete agreement with the submissions made by the learned counsel for the State and thus, is not inclined to entertain the writ application. The present writ application, accordingly, stands dismissed.

(Satyavrat Verma, J)

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