

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2859 of 2020

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Ahmad Raza, S/o Late Md. Mobin, C/o M.D. Mobin (Driver), Mohalla-Belwarganj, P.S.- Alamganj, District- Patna, Pin-800007

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Patna
2. The District Magistrate, Patna
3. The Civil Surgeon cum Chief Medical Officer, Patna
4. The Incharge Medical Officer, Primary Health Centre, Pandarak

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lakmesh Marvind, Advocate
For the Respondent/s	:	Mr. Braj Bhushan Mishra, AC to AAG- 9

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR

ORAL JUDGMENT

Date : 09-07-2026

Heard Mr. Lakmesh Marvind, learned Advocate for the petitioner and Mr. Braj Bhushan Mishra, learned Advocate for the State.

2. The petitioner is aggrieved with the order as contained in letter no.1666 dated 22.02.2016 (Annexure-9) whereby the claim of the petitioner for his appointment on compassionate ground came to be rejected by the Civil Surgeon-cum-Chief Medical Officer, Patna. Challenge has also been made to an order dated 11.07.2019, as contained in Memo No. 5813, issued by the Civil Surgeon-cum-Chief Medical Officer, Patna in pursuant to the order passed by this Court in C.W.J.C. No. 10010 of 2017.



3. This is the second round of litigation, as earlier the petitioner had moved before this Court by filing C.W.J.C. No. 10010 of 2017 on being aggrieved by the letter dated 22.02.2016 whereby the claim of the petitioner was rejected in terms with letter no. 2822 dated 27.04.1995 issued by the Personnel and Administrative Reforms Department, Government of Bihar on account of the application being filed beyond the period of five years.

4. This Court vide its order dated 17.04.2018 after having considered the rival contention of the parties observed that considering the disputed question of facts, it would be appropriate for the respondents to examine the entire matter including taking evidence which may be sought to be produced by the petitioner herein for the purposes of deciding as to whether the application was filed within time or not. The Court further directed to examine the entire matter by giving an opportunity of hearing to the petitioner herein to lead evidence and in case he comes to a finding that the application for appointment on compassionate ground was filed within time, he shall consider the case of the petitioner for appointment on compassionate ground.

5. In pursuant to the order of this Court, the



petitioner approached the Civil Surgeon-cum-Chief Medical Officer, Patna and produced all the necessary documents. The respondent Civil Surgeon-cum-Chief Medical Officer, Patna having considered the materials available on record has opined that the petitioner had initially submitted his application on 28.03.2012, but the application did not contain his signature nor necessary information was given and subsequently he appeared on 17.07.2013 along with necessary documents and put his signature on the application form. Since the petitioner appeared after more than five years from the date of death of the deceased employee, therefore, his application has been found to be time barred and accordingly the same has been rejected again vide impugned order, as contained in Memo No.5813, dated 11.07.2019.

6. Mr. Lakmesh Marvind, learned Advocate for the petitioner while assailing the order has drawn the attention of this Court to Annexure-1 to the writ petition and submitted that the application submitted by the petitioner clearly contains the signature and the date of receiving by the office of the Incharge Medical Officer, Primary Health Centre, Pandarak, Patna acknowledging the receipt on 28.03.2024. It is further contended that on submission of the said application,



correspondences have also been made by the Civil Surgeon-cum-Chief Medical Officer, Patna to the Incharge Medical Officer, Primary Health Centre, Pandarak, Patna vide Memo No. 5433 dated 16.08.2013, which clearly shows that the petitioner had filed application within five years, as prescribed in letter no. 2822 dated 27.04.1995. He further submits that on perusal of other letters it clearly reveal that at no point of time any objection has been raised regarding application for compassionate appointment being filed beyond the period of five years. Subsequently, on account of extreme reason known to the respondents, the claim of the petitioner has been rejected by treating the application as time barred.

7. On the other hand, learned Advocate for the State while refuting the contention of the petitioner has submitted that petitioner's own mother was Naseema Bano, who died in November, 2018 and she had three sons, including the petitioner and a daughter Roohi Khanam. The petitioner, without disclosing the material facts, had obtained the Succession Certificate and thus the other legal heirs have approached this Court by filing Revocation Case No. 12 of 2018 for cancellation of Succession Certificate.

8. Learned Advocate for the State reiterated the



submissions and the observation led in the impugned order and further submitted that the earlier application filed by the petitioner does not contain his signature nor the necessary information was given and for the first time the petitioner appeared in his office on 17.07.2013 and signed his application for compassionate appointment. It is lastly contended that the erstwhile employee, who happened to be step mother of the petitioner had already died on 14.04.2008 and now more than 17 years have been lapsed.

9. Mr. Lakmesh Marvind, learned Advocate for the petitioner, interjected at this point of time, by placing reliance upon a decision in ***Chief General Manager, Telecommunication BSNL & Ors. Vs. Vidya Prasad : (2021) 13 SCC 212*** and made an alternative submission that if this Court comes to the conclusion that there is laches on the part of the State respondents, in such circumstances, the delay should not be taken into account or the petitioner may be appropriately compensated.

10. Before parting with the case, it would be pertinent to take note of the legal position that there is no right to compassionate appointment, it is an exception to general rule that appointment to any public post in service of State must be



made in consonance with Articles 14 and 16 of the Constitution of India. This Court also noticed that the very object of compassionate appointment is to give immediate succor to the bereaved family, whose bread earner died leaving the family in financial crunch.

11. Now coming to the merit of this case, there is no dispute that the submissions, which have been led by the learned Advocate for the petitioner before this Court was duly considered in the earlier round of litigation in C.W.J.C. No. 10010 of 2017 and the documents, on which the petitioner placed reliance were available before the Court and thus considering the every aspect of the matter, the Court comes to the position that for deciding a disputed question of fact, the jurisdiction of the Court cannot be invoked and as such directed the respondents to examine the entire matter including taking evidence which may be sought to be produced by the petitioner herein for the purposes of deciding as to whether the application was filed within time or not.

12. In pursuant to the order, the petitioner had produced all the necessary document before the concerned authority and following the principle of *audi alteram partem*, the entire available record was also looked into and it has been



found that the earlier application filed by the petitioner on 28.03.2012 did not contain his signature, besides lacking necessary information; Subsequently, the petitioner appeared on 17.07.2013 and put his signature on application and submitted all the necessary documents. Thus, the respondent authorities have rightly concluded that the application has been filed beyond the period of five years and, as such, the same cannot be entertained in terms with the directives issued by the Personnel and Administrative Reforms Department, Government of Bihar, as contained in letter no. 2822 dated 27.04.1995, which prescribed the limitation for filing the application within five years.

13. It would also be pertinent to refer the decision rendered by the Hon'ble Supreme Court in the case of *State of Jammu & Kashmir & Ors. Vs. Sajad Ahmed Mir : 2006 INSC 416*, where the Court reinforced that compassionate appointment cannot be granted after unreasonable delay because the primary purpose to help a family from immediate financial crisis after a bread earner's death, lost its significance.

14. In view of the above, this Court is of the opinion that there is no merit in the writ petition. Further, once this Court comes into conclusion that there is no laches on the



part of the respondents, the decision cited by the learned Advocate for the petitioner has no application.

15. Accordingly, the present writ petition stands dismissed.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.07.2026
Transmission Date	NA

