

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2293 of 2022

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Alok Kumar S/O Late Ashok Kumar Resident of Shastri Nagar quarter no. 651/800, opp. Begreegram, Ltd., Bihar, P.O. B.V. College, P.S. Shastri Nagar, District- Patna at present residing Lal Bhawan, Mridubhashi Nagar, South Brahampur, P.S. Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary.
2. The Advocate General, Bihar, Patna.
3. Additional Advocate General, cum In-charge, office of Advocate General, Bihar, Patna.
4. The Secretary, Law department, Govt. of Bihar Patna.
5. The Principal Secretary, General Administration Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjan Kumar Sinha, Advocate
		Ms. Jyoti Kumari, Advocate
For the State	:	Mr. Manoj Kumar (AC to GP-4)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 14-07-2026

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for issuance of writ/writs, order/orders, direction/directions in the nature of Certiorari/Mandamus or any other appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities for the grant of following relief/s:-

“I. For quashing the impugned letter bearing No. 343 dt. 18.9.2019, letter no. 29



dt. 23.1.2020 as well as memo no. 303 dated 29.11.2021 whereby and hereunder the claim of petitioner for appointment on compassionate ground has been rejected.

II. For a direction to respondent authorities to consider the claim of the petitioner and pass an order for appointment to a suitable post on the basis of compassionate ground on his father died in harness from the post of Stenographer, office of Advocate General, Bihar, Patna.

III. For such other relief or reliefs as the petitioner may be found entitled to in the eye of law.”

3. Learned counsel for the petitioner submits that the father of the petitioner died on 08.03.2015, leaving behind his wife, two sons and three daughters. He submits that the eldest son after coming into service has been living separately and being separate in mess and business has not shown any concern during the lifetime of his deceased father. Counsel submits that the petitioner's father was working as a Stenographer in the office of Advocate General, Bihar and after the sudden death of the petitioner's father, the office of the Advocate General, Patna High Court has rejected the claim of appointment on compassionate ground *vide* Letter No. 343



dated 18.09.2019, on the ground that the eldest son of the Late Ashok Kumar is in Government service and working in the Circle Office, Phulwarisharif, Patna. Counsel further submits that the family of the petitioner is in acute distress and compassionate appointment be given to the petitioner, as the compassionate appointment cannot be denied only on the ground that another son is in service if he is not maintaining and supporting the family. In the family of the petitioner, there is wife of the deceased employee and unmarried young sister. He submits that the petitioner's father died in the year 2015. The application was filed in the year 2018, thereafter in 2019, and again on 25 November 2020. But, prior to three representations, the request for compassionate appointment has been rejected on the ground that after the death of petitioner's father, the eldest son joined the services and one of the dependent in the family is in a position of gainfully employment.

4. Learned counsel for the State, on the other hand, submits that no relief can be granted to the petitioner due to the reason that death has taken place in the year 2015 and in the rejection order, it has been acknowledged that upon verification from the Circle Office, it has come that the elder brother of the petitioner is in service. Counsel further relied on a judgment



passed by Hon'ble L.P.A. Bench of this Court in case of ***Rajeev Kumar Manjhi Vs. The State of Bihar & Ors.*** reported in ***(2018) 2 PLJR 263*** and submits that in this case, the appellant's father died in the year 2001 and the family survived after that for more than five years. The application for compassionate appointment was filed after more than four and a half years and there was also available on record the fact that one of the sons of the deceased employee was in government employment. Counsel submits that the compassionate appointment is not a right, it is a process of appointment contrary to the mandate of Article 14 of the Constitution of India and it is required to be granted on exceptional circumstances and in accordance with the scheme for compassionate appointment. Moreover, the compassionate appointment cannot be granted after a long period of time. The compassionate appointment is not a form of reservation to be claimed as a matter of right. Counsel further submits that from the documents, it also does not transpire that the brother of the petitioner who is earning, is maintaining the family or not. In case of non-maintenance, there are different laws under which the mother can demand maintenance from the son under section 125 of the Code Of Criminal Procedure, 1973 (Act No. 2 of 1974), under the Protection of Women From



Domestic Violence Act, 2005 (Act No. 43 of 2005) and under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (Act No. 56 of 2007) read with its corresponding rules framed by the State of Bihar.

5. In response thereof, learned counsel for the petitioner submits that the exceptional circumstance is that the Ward Commissioner has given a certificate and the petitioner's sister is unmarried.

6. This Court on the point of exceptional circumstance is of the opinion that in granting certificate by the Ward Commissioner and the law framed by the law makers, the law framed by the law makers shall prevail.

7. Upon perusal of the judgment cited by the learned counsel for the State in case of ***Rajeev Kumar Manjhi (supra)***, it is necessary to quote the relevant para nos. 4, 5 & 6, which states as follows:-

“4. However on going through the various aspects of the matter we find that the appellant's father died in the year 2001. The family survived after that for more than five years. The application for compassionate appointment was filed after more than four and a half years and there was also available on record the fact that one of the



sons of the deceased employee was in government employment. There was no partition of the family property. The property of the family was enough for maintenance and the widowed mother was not being maintained by the elder brother she has a right to claim maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act 2007 and finding that it is not a fit case where compassionate appointment can be granted, the application has been rejected.

5. Even though the learned counsel for the petitioner vehemently argued that in this case, once in the year 2011 the matter was remanded back to appropriate Committee and the Committee was of the opinion that the elder brother was not maintaining the family and living separately, it was fit case where compassionate appointment should have been granted. It is said that in rejecting the claim of the petitioner on the ground as are indicated hereinabove both the departmental authorities and the learned Writ Court have committed an error.

6. Having considered the rival contentions and having bestowed our anxious consideration on various issues of the matter, we hold that compassionate appointment is not a right, it is a process of



appointment contrary to the mandate of Article 14 of the Constitution of India and it is required to be granted on exceptional circumstances and in accordance with the scheme for compassionate appointment. Apart from the fact that compassionate appointment cannot be granted after a long period of time which has lapsed after death of the legal heir of the family. Compassionate appointment is not a form of reservation to be claimed as a matter of right. The settled principle that can be safely derived on going through the various judgments of the Hon'ble Supreme Court with regard to the scope of compassionate appointment, are as follows:-

(1) General Manager, SBI v. Anju Jain [(2008) 8 SCC 475], wherein it has been laid down that delay and laches in claim of compassionate appointment cannot be permitted.

(2) State of Jammu & Kashmir v. Sajad Ahmad Mir [(2006) 5 SCC 766], Compassionate appointment cannot be granted after 10 to 14 years of death of the employee that also after the son attains majority.

(3) Jagdish Prasad v. State of Bihar [(1996) 1 SCC 301]

(4) Haryana State Electricity Board v.



Hakim Singh [(1997) 8 SCC 85]”.

8. Hence, in this background, this Court is of the firm view that rejection order of the petitioner is absolutely in accordance with law and there is no need of any interference in this matter.

9. Accordingly, with the aforesaid observation, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
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Transmission Date	NA

