

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.229 of 2025

In
Civil Writ Jurisdiction Case No.5950 of 2023

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Vivek Kumar, Son of Late Krishna Nandan Singh, Resident of Villge- Amba,
P.O. and Police Station - Hariharganj, District - Palamu, Jharkhand.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna.
3. The District Magistrate, Patna cum Chairman, District Level Compassionate Committee, Patna.
4. The Deputy Collector, Establishment, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Sumeet Kumar Singh, Advocate Mr. Anmol Kumar, Advocate Ms. Abhilasha Kumari, Advocate
For the Respondent/s	:	Mr. Amarendra Kumar Singh, Advocate Mr. Manoj Kumar Sinha, AC to GA-9

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-02-2026

This Letters Patent Appeal has been filed by Vivek Kumar, the writ-petitioner, challenging the order dated 18.11.2024 passed by the learned Single Judge in C.W.J.C. No. 5950 of 2023.

The appellant filed the aforesaid writ petition seeking the following relief(s):-

“(i) To issue an appropriate writ preferably in



the nature of 'Certiorari' for setting aside the part of decision taken by the District Level Compassionate Committee in its meeting held on 27.1.2023 whereby and where under the application made by the petitioner for appointment on compassionate ground has been rejected on the sole ground of delay in making the application. The said decision has been communicated through Memo No.383 dated 27.1.2023.

- (ii) To issue an appropriate writ preferably in the nature of 'Mandamus' commanding upon the respondent authorities to appoint the petitioner on compassionate ground on any vacant and sanctioned post in Minor Water Resources Department, Government of Bihar, Patna with all consequential benefits.*
- (iii) To grant any other relief(s) for which the petitioner may be found entitle to in the facts and circumstances of the case.”*

2. It is the case of the appellant that his father was employed as Guard in the Minor Water Resources Department as a regular Government employee and posted in the office of Chief Engineer, Minor Water Resources Department, Government of Bihar, Patna. His date of retirement was 31.01.2031, however, he died on 06.04.2014, and at the time of his death, the appellant was aged about 14 years and at that time, the appellant's mother was not eligible for appointment, as she was illiterate. The elder sister of the appellant was married



and she expressed her unwillingness for appointment. Two sisters of the appellant were younger to the appellant and they were also minor in the year 2014. The appellant completed the Secondary School Examination in the year 2020 and during Covid-19 period he could not take any positive steps for compassionate appointment and after the relaxation granted by the Government in country wide lock down he made an application before the concerned authority but the same was turned down by the District Level Compassionate Committee on the ground of delay.

3. When the notice was issued, counter affidavit has been filed by Respondent Nos. 1 and 2 by Sunil Kumar, Chief Engineer, M.W.R.D., Patna wherein it is stated as follows:-

“9) That it is stated that the petitioner's father was appointed as a class four employee in the office of the Chief Engineer, Minor Water Resource Department, Government of Bihar, Patna.

10) That it is further stated that the petitioner's father died on harness on 06.04.2014 during his service period.

11) That thereafter the petitioner has given his application for his compassionate appointment on 19.07.2021 for the first time in the office of Chief Engineer Minor Water Resource Department, Patna i.e. after the delay of 7 years.

12) That it is further stated that thereafter the vide letter no. 2376 dated 24.11.2022, the



Chief Engineer, Minor Water Resource Department, Patna has requested the Deputy Collector, Establishment to take decision with regard to the compassionate appointment of the petitioner (letter already annexed in the writ petition).

- 13) That it is further stated that thereafter the meeting of the District Level Compassionate Committee was convened on 27.01.2023 under the Chairmanship of District Magistrate, Patna in which the claim of the petitioner was rejected on the ground of delay.*
- 14) That it is further stated that the ground taken by the Committee for rejection of the claim of the petitioner is that he has given his application for the said appointment on 19.07.2021 i.e. much later than the maximum time prescribed for the application of the compassionate appointment. That, as per the letter no. 2822 dated 27.04.1995 of the General Administration Department, the time for applying for the compassionate appointment is within five years of death of the employee.*
- 15) That it is further stated that the very purpose of the compassionate appointment is to provide financial assistance to the family members of the deceased employee who has died all of a sudden and was the sole earner of the family and further the family has been able to survive for last seven years and has given the said application for compassionate appointment after the delay of seven years, therefore the said application of the petitioner was rejected in the light of the letter no. 2822 dated 27.04.1995 of the General Administration*



Department.

16) That in view of the aforesaid facts stated above it is clear that the statement made by the petitioner in the writ application is not sustainable in the eye of law and in this view of the matter this writ petition has got no merit and the same is fit to be dismissed.”

4. Similarly, supplementary counter affidavit was also filed on behalf of Respondent Nos. 3 and 4 by Anisha Bharti, Senior Deputy Collector, Patna wherein it is stated as follows:-

“9) That in the meeting of the District Level Compassionate Committee held on 29.03.2022, it had been decided to seek report as to when the petitioner has submitted application in the concerned department. In this regard the Chief Engineer, Minor Water Resource Department vide letter no. 2376, dated 24.11.2022 has sent his report that the application for compassionate appointment has been submitted on 19.07.2021.

10) That per as letter no. 2822, dated 27.04.1995 issued by the General Administration Department, Bihar, Patna that the dependent has to submit the application form within five years from the death of the deceased Government servant.

11) That in view of the aforesaid facts, the District Level Compassionate Committee has rejected the application filed by the petitioner vide memo no. 383, dated 27.01.2023 (Annexure-3 of the writ petition) as it has become time barred i.e.



the application has not been submitted by the dependent of the deceased within five years of the death of the Government Employee.”

5. The learned Single Judge after hearing the learned counsel for both the parties considered the ratio laid down by the Hon’ble Supreme Court in the case of ***Umesh Kumar Nagpal vs. State of Haryana and Others***, reported in (1994) 4 SCC 138; ***The State of West Bengal vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***; ***Jagdish Prasad vs. State of Bihar***, reported in (1996) 1 SCC 301; ***State of U.P. vs. Paras Nath***, reported in (1998) 2 SCC 412 and ***Chennai Metropolitan Water Supply & Sewerage Board vs. T.T. Murali Babu***, reported in (2014) 4 SCC 108 and observed as follows:-

“7. The law is well settled in respect of appointment on compassionate ground. The Apex Court relying on the ratio of ***Umesh Kumar Nagpal v. State of Haryana and Others*** reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

*"7.2. On consideration of the
aforesaid decisions of this*



Court, the following principles emerge:

- i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.*
- ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependents of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*
- iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.*
- iv. That compassionate appointment should be provided immediately to redeem the family in distress.*



It is improper to keep such a case pending for years.

- v. *In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.*
8. In the case of ***Jagdish Prasad v. State of Bihar*** reported in ***(1996) 1 SCC 301***, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.
9. In case of ***State of U.P. v. Paras Nath***, reported in ***(1998) 2 SCC 412***, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.
10. Reiterating the aspect of delay and laches would dis-entitle the discretionary relief being granted, the Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage board V. T.T. Murali Babu***,



reported in **(2014) 4 SCC 108** has held in paragraph no. 16 which is reproduced hereinafter :-

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and



rise like a phoenix. Delay does bring in hazard and causes injury to the lis”

11. Based on the above principles and the pleadings made in the writ petition and the counter affidavit filed on behalf of respondents, the admitted facts are that the father of the petitioner died on 06.04.2014 while he was in service and for the first time, the petitioner made an application on 19.07.2021 for consideration of his appointment on compassionate ground after much delay of seven years and it cannot be said that the family of the petitioner faced any hardship on account of unexpected death in view of the fact that the petitioner has sustained to live till date, the present writ petition requires no interference.”

6. Learned counsel for the appellant though placed before us some of the notifications of the State Government issued by the General Administration Department but we are of the view that these are not applicable in the case of the appellant. Admittedly, when the death has taken place on 06.04.2014, the appellant was minor and he attained majority on 12.03.2018 and submitted the application for compassionate appointment on 19.07.2021. The counter affidavit makes it very clear that such application is to be filed within a period of five years from the date of death in terms of Letter No. 2822 dated 27.04.1995 of the General Administration Department.



Therefore, not only the appellant did not file the application for compassionate appointment within the prescribed period but also even after he attained majority on 12.03.2018. The inordinate delay in filing such application has not been explained, and in view of the settled position of law that such appointment is not a vested right which can be exercised at any time in future and it cannot be claimed or offered after a lapse of time and the object of such appointment is to give a chance to the dependent of the deceased employee who die in harness to relieve the unexpected immediate hardship and distress caused to the family by the sudden demise of the earning member of the family, we are of the view that the learned Single Judge has rightly applied the principle laid down by the Hon'ble Supreme Court in the aforesaid cases.

7. After hearing the learned counsel for the appellant and going through the impugned order and particularly the counter affidavits filed by the respondents in the writ petition, we are of the view that there is no perversity or palpable unreasonableness in the impugned order. In view of the limited scope of the appellate jurisdiction for interference in an intra-court appeal against the order passed by the learned Single Judge, we are not inclined to interfere with the same.



8. Accordingly, the Letters Patent Appeal stands dismissed.

9. Interlocutory Application(s), if any, shall stand disposed of.

(Sangam Kumar Sahoo, CJ)

(Harish Kumar, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.02.2026
Transmission Date	

