

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4362 of 2017

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Md. Naushad Alam Son of Late Md. Shafique, Resident of Village-
Makdumpur Dih, P.S.- Makdumpur, District- Jahanabad.

... .. Petitioner/s

Versus

1. The Principal Secretary Department Of Health, Bihar and Ors
2. The Director Health Department, Government of Bihar, Patna.
3. The District Magistrate, Jahanabad.
4. The Civil Surgeon cum Chief Medical Officer, Jahanabad.
5. The Incharge Medical Officer Referral Hospital Makdumpur Jahanabad.
6. The District Establishment Deputy Collector, Jahanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arun Kumar Bhagat
For the Respondent/s	:	Mr. Birju Prasad-Gp13
		Mr. Ajit Anand, AC to GP-13
		Mr. Akshay lal Pd, AC to GP-13

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CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 22-06-2026

Heard the learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

2. The petitioner has filed the present writ petition
for commanding the respondents to appoint the petitioner on a
Class-III/IV post on compassionate ground, which has been
rejected by the authority concerned in its meeting dated
14.10.2016 on the ground that the application has been filed
after a long period.

3. The learned counsel for the petitioner submits
that the father of the petitioner was an employee of the State
Government, working as Sweeper and was posted in Referral
Hospital, Makdampur. He died in harness on 13.05.2005,



leaving behind his wife and two minor sons, including the petitioner, who was aged about 10 years at the time of death of his father. Since the petitioner was a minor at the time of the death of his father, after attaining the age of majority, he filed an application in prescribed performa before the In-charge Medical Officer, Referral Hospital, Makdampur on 5.2.2016, enclosing all the relevant documents in his favour. The In-charge Medical Officer vide his letter no. 208 dated 17.5.2016 forwarded the application of the petitioner to the Civil Surgeon- Cum- Chief Medical Officer, Jahanabad, who in-turn forwarded the same to the District Magistrate, Jahanabad vide his letter no. 1785 dated 26.9.2016. The matter with regard to appointment of the petitioner on compassionate appointment was placed before the Compassionate Appointment Committee in its meeting dated 14.10.2016, however, the case of the petitioner was rejected on the ground that his application has been filed after a delay of 11 years, whereas the time limit for making an application is only five years.

4. The learned counsel appearing on behalf of the petitioner further submits that while deciding the case of the petitioner, the committee failed to appreciate that the date of birth of the petitioner is 15.03.1995 and at the time of the death,



he was a minor. He attained majority in the year 2015 and only after attaining the age of majority, he submitted his application along with all the relevant documents in 2016. He further submits that the father of the petitioner was a Class-IV employee and there is no other source of income of the family of the petitioner. The scheme of appointment on compassionate ground is for welfare of the family of the deceased employee and it is not in dispute that at the time of the death of his father, the petitioner was only 10 years old and was not eligible for consideration of his case for appointment on compassionate ground. He submits that only after attaining the age of majority, the petitioner has filed his application for consideration of his case for being appointed on compassionate ground.

5. Per Contra, the learned counsel appearing on behalf of the State submits that the case of the petitioner has rightly been rejected on the ground of delay, since at the time of death of his father in 2005, he was only 10 years of age and later on when he attained the age of majority, he filed his application for appointment on compassionate ground in 2016, which is beyond the prescribed period of five years, for making application for being appointed on compassionate ground. He submits that the case of the petitioner does not deserve



consideration by this Hon'ble Court in view of the delay in filing his application before the competent authority and it is an admitted fact that at the time of death of his father, the petitioner was a minor.

Consideration

6. Having considered the rival submissions and after going through the records, it appears that the father of the petitioner, while working as a Sweeper died in harness on 03.05.2005, leaving behind his wife and two sons, including the petitioner. At the time of the death of his father, admittedly the petitioner was a minor, aged about 10 years. After attaining the age of majority in 2015, he submitted his application for appointment on compassionate ground, before the competent authority, along with all the relevant documents and the same was duly forwarded by the authorities concerned. The case of the petitioner for his appointment on compassionate ground was considered by the compassionate appointment committee on its meeting dated 14.10.2016, however, the same was rejected on the ground that it has been filed beyond the five years period, as prescribed by the government, in case of death of an employee, who died in harness. In case of the petitioner, it was found that he submitted his application after 11 years. The law in this



regard is very much clear. The petitioner has not assailed the said decision in the present writ petition.

7. The law with regard to compassionate appoint is very much clear. The Hon'ble Supreme Court of India in the case of (**Umesh Kumar Nagpal Vs. State of Haryana & Ors.**), reported in 1994 (4) SCC 138, in paragraph no. 6, has held as follows:

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

8. Further the Hon'ble Supreme Court of India in the case of (**Jagdish Prasad Vs. State of Bihar & Anr.**), reported in 1996 (1) SCC 301, in paragraph no. 3, has held as follows:-

"3.....The very 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. Since the death occurred way back in 1971, in which year the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contention is accepted, it amounts to another mode of recruitment of the dependent of a deceased government servant which cannot be encouraged, de hors the recruitment rules."

9. Further the Hon'ble Supreme Court of India in the case of **(Local Administration Department and Another Vs. M. Selvanayagam @ Kumaravelu)**, reported in 2011 (13) SCC 42, in paragraph no. 11, has held as follows:-

"11. It has been said a number of times earlier but it needs to be recalled here that under the scheme of compassionate appointment, in case of an employee dying in harness one of his eligible dependants is given a job with the sole objective to provide immediate succour to the family which may suddenly find itself in dire straits as a result of the death of the breadwinner. An appointment made many years after the death of the employee or without due consideration of the financial resources



available to his/her dependants and the financial deprivation caused to the dependants as a result of his death, simply because the claimant happened to be one of the dependants of the deceased employee would be directly in conflict with Articles 14 and 16 of the Constitution and hence, quite bad and illegal. In dealing with cases of compassionate appointment, it is imperative to keep this vital aspect in mind."

10. Further this Court, after considering the judgment of the Hon'ble Supreme Court of India referred to above, proceeded to reject the claim of the petitioner in C.W.J.C. No. 7326 of 2026 (**Tinku Kumar Vs. The State of Bihar and Ors.**), vide its oral judgment dated 14.05.2026 and C.W.J.C. 5750 of 2022 (**Janki Ballabh Versus the State of Bihar and ors.**).

11. Having considered the facts noted above and on the basis of the settled legal proposition, and also the fact that the petitioner has not assailed the order dated 14.10.2016 so far it relates to the petitioner, by which his claim has been rejected, this Court is of the considered opinion that the writ petition filed by the petitioner does not deserve any consideration and is accordingly rejected.

12. Pending application(s), if any, shall also stands



disposed of.

(Ritesh Kumar, J)

krishnakant/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.06.2026
Transmission Date	NA

