

IN THE HIGH COURT OF JUDICATURE AT PATNA

Md. Imran Khan

vs.

State of Bihar and Others

Civil Writ Jurisdiction Case No. 11890 of 2015

31 August, 2023

(Hon'ble Mr. Justice Mohit Kumar Shah)

Issue for Consideration

Whether letter dated 04.09.2012, issued by the Director, Student and Youth, Department of Youth, Art and Culture, Government of Bihar, Patna, rejecting the candidature of the petitioner for appointment on compassionate ground is correct or not?

Headnotes

Service Law—Compassionate Appointment—denied/rejection—father of petitioner was murdered, while he was on duty—father of petitioner was working as a driver in the National Cadet Corps—mother of the petitioner had applied for compassionate appointment on behalf of her youngest son but she did not get any reply—petitioner has failed to furnish any proof regarding him being the only legal heir of the deceased employee.

Held: no application for compassionate employment was filed, within the prescribed period of five years of the death of the deceased employee—writ petition was filed after a lapse of about 29 years of the death of the deceased employee, which is marred by delay and laches, hence, no relief can be granted to the petitioner—compassionate employment is not a vested right which can be exercised at any time—object of compassionate employment is to enable the family of the deceased to tide over the immediate financial crisis which it faces at the time of the death of the sole bread-winner, hence compassionate employment cannot be claimed and offered after lapse of considerable time and after the crisis is over—no relief can be granted to the petitioner, at this juncture, hence, writ petition dismissed.

(Paras 3 to 6)

Case Law Cited

Umesh Kumar Nagpal vs. The State of Haryana and Ors., (1994) 4 SSC 138
—Relied Upon.

List of Acts

Service Law

List of Keywords

Compassionate Appointment, delay and laches, compassionate employment is not a vested right.

Case Arising From

From letter dated 04.09.2012, issued by the Director, Student and Youth, Department of Youth, Art and Culture, Government of Bihar, Patna, rejecting the candidature of the petitioner for appointment on compassionate ground.

Appearances for Parties

For the Petitioner: Mr. Vijay Kumar Mishra, Advocate.

For the Respondents: Mr. Anirban Kundu, SC-24.

Headnotes Prepared by Reporter: Abhas Chandra, Advocate.

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11890 of 2015

Md. Imran Khan Son of Late Jamil Akhterkhan, Resident of Room No. 1
Hazrat Bila Masjid, Samanpura, P.S. - Shastrinagar, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Art, Culture and Youth Welfare, New Secretariat, Patna.
3. The Deputy Secretary Secretary, Department of Art, Culture and Youth Welfare, New Secretariat, Patna.
4. The District-cum-Deputy Secretary, Student and Youth Welfare Department of Art, Culture and Youth Welfare, New Secretariat, Patna.
5. The District Compassionate Committee through the District Magistrate, Patna.
6. The Director General, National Cadet Corps Directorate, Rajendra Path, Patna - 800019.
7. The Assistant Administrative Officer for Director General, National Cadet Corps Directorate, Rajendra Path, Patna.
8. The Joint Director, National Cadet Corps Directorate Rajendendra Path, Patna - 800019.
9. The Commanding Officer, National Cadet Corps Groups Head Quarters Rajendra Nagar, Patna - 800016.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vijay Kumar Mishra, Advocate
For the Respondent/s : Mr.Anirban Kundu, SC-24

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 31-08-2023

1. The present writ petition has been filed for directing the respondent authority to appoint the petitioner on compassionate ground, after quashing the letter dated 04.09.2012, issued by the Director, Student and Youth, Department of Youth, Art and Culture, Government of Bihar,



Patna, whereby and whereunder the candidature of the petitioner for appointment on compassionate ground has been rejected.

2. The brief facts of the case, according to the petitioner, are that the father of the petitioner was working as a driver in the National Cadet Corps Group Headquarters, Rajendra Nagar Patna and he was murdered, while he was on duty, on 02.09.1986, whereafter the mother of the petitioner had applied for compassionate appointment on 07.04.1987 on behalf of her youngest son but she did not get any reply, however, subsequently after a lapse of three years, the Joint Director, National Cadet Corps Directorate had directed for payment of retiral benefits and family pension to the mother of the petitioner, which was then paid subsequently. It is also submitted that when the petitioner attained 18 years of age, his mother had again applied for grant of compassionate employment to the petitioner, however, the same was rejected vide letter dated 19.10.2001, issued by the Deputy Secretary to the Government, Art, Culture and Youth Department, Government of Bihar, Patna, on the ground that the mother of the petitioner had depicted the age of her son to be 30 years at the time of death of her husband, no application was ever given in the requisite format, the deceased employee had five children,



however, the mother of the petitioner had only disclosed about the petitioner, to be her son and moreover, the elder son of the deceased employee, namely, Samsul Hodda had given an application for grant of appointment on compassionate ground on 03.11.1992, that is after a lapse of six years of death of the deceased employee, which is time barred inasmuch as the circular of the Personnel and Administrative Reforms Department, dated 25.05.1989, prescribes the time limit for submitting application for compassionate employment as 5 years, from the date of death of the deceased employee. The petitioner is stated to have filed several representations and finally the Director, Student and Youth Welfare, Art, Culture and Youth Department, Government of Bihar Patna, vide letter dated 04.09.2012, had taken a decision that since the application of the petitioner for grant of compassionate employment was received after expiry of the period of limitation of five years, the same cannot be considered.

3. *Per contra*, the learned counsel appearing for the respondent-State has referred to the counter affidavit, filed in the present case, to submit that the deceased employee late Shri Jamil Akhter Khan was having three sons and two daughters, however, the mother of the petitioner had made reference only



about the petitioner leading to a situation of there being no consensus amongst the legal heirs of the deceased employee as to who should be provided compassionate employment. It is further submitted that no application for grant of compassionate employment was ever received, in the prescribed format, within a period of five years of the death of the father of the petitioner, which is the limitation period for filing an application for compassionate employment. It is next contended that no documentary evidence has been produced by the petitioner to show that he is the son of late Jamil Akhter Khan and that he is the only legal heir of the said deceased employee. In fact, the first application, stated to have been submitted by the mother of the petitioner for compassionate employment is dated 03.11.1992, which is also time barred.

4. I have heard the learned counsels for the parties and perused the materials on record from which one thing is admitted that the deceased employee was murdered, which he was on duty, on 02.09.1986 that is about 37 years back and the petitioner is aged about 51 years at the moment. It is also not in dispute that no application for compassionate employment was filed, within the prescribed period of five years of the death of the deceased employee and moreover, even the present writ



petition has been filed belatedly in the year 2015 after a lapse of about 29 years of the death of the deceased employee, which in any view of the matter is marred by delay and laches, hence no relief can be granted to the petitioner, at this juncture, especially in view of the fact that he has failed to furnish any proof regarding him being the only legal heir of the deceased employee, namely, late Jamil Akhter Khan. In any view of the matter, it is a well settled law that compassionate employment is not a vested right which can be exercised at any time, inasmuch as the object of compassionate employment is to enable the family of the deceased to tide over the immediate financial crisis which it faces at the time of the death of the sole bread-winner, hence compassionate employment cannot be claimed and offered after lapse of considerable time and after the crisis is over. Reference in this connection be had to a judgment, rendered by the Honorable Apex Court in the case of **Umesh Kumar Nagpal vs. The State of Haryana and Ors.**, reported in **1994 (4) SSC 138**.

5. This Court also deems it appropriate to observe that if any application is entertained after a long period, not only existing vacancies may be filled up by regular employment but other cases of similar nature may arise where grant of immediate relief by providing employment to the dependents of



the deceased employees may crop up, hence what is material for consideration is the time when the relief is to be granted to a family in distress and not to reserving a job for one of the dependents.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, no relief can be granted to the petitioner, at this juncture, hence the present writ petition stands dismissed, being devoid of any merit.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.09.2023
Transmission Date	NA

