

IN THE HIGH COURT OF JUDICATURE AT PATNA
Manoj Kumar
vs
The State of Bihar & Others
CWJC No. 12117 of 2015
25-08-2023

[Honourable Mr. Justice Mohit Kumar Shah]

Issue for Consideration

- Whether the delay of more than 6 years in filing an application for compassionate appointment, due to the petitioner being a minor and not matric-pass at the time of his father's death, is a valid ground to condone such delay.
- Whether compassionate employment can be granted beyond the stipulated limitation period under the applicable government circular.

Headnotes

Petitioner was neither eligible nor did petitioner did not file any application for appointment on compassionate ground, prior to expiry of the period of limitation, hence the petitioner is definitely not entitled for appointment on compassionate ground. (Para 5)

What is material for consideration is the time when the relief is to be granted to a family in distress and not to reserve a job for one of the dependents. (Para 6)

Petition is devoid of any merit, hence, is dismissed. (Para 8)

Case Law Cited

Umesh Kumar Nagpal v. State of Haryana & Ors., (1994) 4 SCC 138
State of Gujarat v. Chitraben, (2015) 14 SCC 574

List of Acts

Bihar Government Circular dated 27.04.2005 issued by the Department of Personnel and Administrative Reforms

List of Keywords

Compassionate Appointment, Limitation Period, Minor Dependent, Matriculation Requirement, Delay in Filing Application, Government Employment, Financial Crisis, Discretionary Relief, Circular Compliance, Eligibility at Time of Death

Case Arising From

Rejection of application for compassionate appointment by District Collectorate, Begusarai via order dated 29.05.2013.

Appearances for Parties

For the Petitioner: Mr. Ajay Nandan Sahay, Advocate
For the Respondents: Mr. P.K. Singh (SC-12)

Headnotes Prepared by Reporter:
Amit Kumar Mallick, Adv.

Judgment/Order of the Hon’ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12117 of 2015

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Manoj Kumar S/o Late Suresh Mahto resident of Village - Barouni - 2, P.O. - Barauni Deodhi, P.S. - Barauni, District - Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar through District Magistrate, Begusarai.
2. The Collector-cum-Chairman, District Compassionate Committee, Begusarai.
3. The Sub-Divisional Officer Teghara, Begusarai.
4. The Superintendent of Police, Begusarai.
5. The Officer-in-charge, Teghara, Police Station Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Nandan Sahay, Advocate
 For the Respondent/s : Mr.P.K. Singh- SC12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 25-08-2023

1. The present writ petition has been filed for directing the respondents to consider the claim of the petitioner for compassionate employment, upon quashing of the order dated 29.05.2013, issued by the In-charge Officer, District Collectorate, Begusarai, whereby and whereunder the application of the petitioner for compassionate employment has been rejected on the ground of the same having been filed after about 07 years of death of the Government employee whereas, according to the Circular dated 27.04.2005, issued by the Personal and Administrative Reforms Department,



Government of Bihar, Patna, the time limit for filing an application for grant of appointment on compassionate ground is upto 05 years from the date of death of the Government employee.

2. The brief facts of the case, according to the petitioner, are that the father of the petitioner namely Late Suresh Mahto died on 11.12.2005 while working as *Chowkidar* at Teghra Police Station leaving behind a widow, one minor daughter and two minor sons including the petitioner herein.

3. The learned counsel for the petitioner has submitted that since at the time of death of the father of the petitioner, the petitioner was only 12 years 11 months and 08 days old and he was also not Matric pass, he could not apply for compassionate employment in time, however after publication of the result of Matriculation examination on 27.08.2011, he had filed an application for appointment on compassionate ground. It is further submitted that the petitioner could not file application for compassionate employment within a period of 05 years of the death of his father, since he was not eligible at that moment of time.

4. *Per contra*, the learned counsel for the



respondent- State has submitted by referring to the counter affidavit, filed in the present case that the father of the petitioner died on 11.12.2005 but the application for compassionate appointment was filed only on 02.01.2012, after a delay of more than 06 years, thus the application of the petitioner for grant of compassionate employment being time barred, was rejected, hence there is no error or legal infirmity in the order dated 29.05.2013. It is also submitted that the time period for filing application for grant of employment on compassionate ground is 05 years from the date of death of the incumbent, whereas the petitioner had filed application for employment on compassionate ground after lapse of about 06 years, hence, the same cannot be entertained.

5. I have heard the learned counsel for the parties and gone through the materials on record. This Court finds that the petitioner was neither eligible nor the application was filed by him within the time frame prescribed for filing such an application, whereas, the petitioner had passed the Matriculation examination only on 27.08.2011 i.e. after the period of limitation, for filing an application for appointment on compassionate ground, had expired, inasmuch as his father had died way back on 11.12.2005. This Court further finds



that admittedly, the petitioner did not file any application for appointment on compassionate ground, prior to expiry of the period of limitation, hence the petitioner is definitely not entitled for appointment on compassionate ground, thus his case has rightly been rejected.

6. It is a well-settled law that if any application is entertained after a long delay, not only existing vacancies may be filled up by regular appointment 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 reserve a job for one of the dependents. In this connection, it would be apt to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Umesh Kumar Nagpal v. The State of Haryana and others***, reported in ***(1994) 4 SCC 138***, paragraph no. 6 whereof is reproduced herein below:-

“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 get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered after the lapse of time and after the crisis is over.”

7. It would also be appropriate to refer to yet another judgment rendered by the Hon’ble Apex Court in the case of ***State of Gujarat vs. Chitraben***, reported in **(2015) 14 SCC 574**, paragraph no. 9 whereof, is reproduced herein below:-

“9. It is not a matter of dispute, that the respondent has possessed only the qualification of IVth standard, and does not possess the qualification of “Secondary School Certificate” examination, as has been postulated in Rule 3(ii) of the Notification dated 16-3-2005. It is therefore imperative for us to conclude, that the respondent was not qualified for appointment against Class IV posts, when her husband died in harness on 13-6-2006. When the respondent applied for appointment on compassionate grounds on 17-7-2006, it was necessary for her, to fulfil the qualification stipulated in the Notification



dated 16-3-2005. Since, admittedly the respondent did not fulfil the aforesaid qualification, she was not eligible to claim appointment on compassionate grounds, under the resolution dated 10-3-2000.”

8. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the present writ petition is devoid of any merit, hence, is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA

