

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.7084 of 2023**

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Abdul Bari Son of Late Abdul Khalique, Resident of Village  
Masuriya, Ward No. 12, P.O. Masuriya, P.S. Mahalgaon, District-  
Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Personnel and  
Administrative Department, Bihar, Patna.
2. The District Magistrate-cum-Chairman, Appointment Committee,  
Sitamarhi.
3. The District Compassionate Appointment Committee, Sitamarhi.
4. The Deputy Collector (Establishment), Sitamarhi.
5. The Executive Engineer, Public Health Division, Sitamarhi.

... .. Respondent/s

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Appointment on compassionate Ground - petitioner's case was rejected by District compassionate appointment committee, Sitamarhi on the ground of being Time barred - as application was filed by petitioner after 5 years of the death of his father contrary to general administrative department circular, Bihar, Patna dated 30.08.2019- in which it is stated that incumbent is required to file application for grant of compassionate employment within a period of five Year of having attained majority - but petitioner filed the application thereafter- hence Time barred.

Father of petitioner died in harness on 02-06-2015 - petitioner was minor at that time of death of his father, as his date of birth was 15-05-1998 – He attained majority on 15.05-2016 – Then he applied for appointment on 20-01-2020 within the Stipulated period of five years of death of his father as provided in circular dated 27.04.1995.

Held, In the present case the prescribed time limit of 5 years for filing application was yet to expire on the day from the date of death of his father i.e 02-06-2015. hence the petitioner was entitled to file application as per Govt. circular dated 27/04/1995-He filed much before expiry of 5 years i.e on 21/01/2020 - old government circular dated 30.08.2019 is not at all applicable in the fact and circumstances of the present case.-Hence impugned order as content in memo dated 04.03.2021 is illegal - set a side- respondents are directed to consider the case of petitioner for appointment on compassionate ground, a fresh on merit in terms of recommendation made by the Executive Engineer, Public Health division, Sitamarhi vide his letter dated 05/09/2022 and pass appropriate order within a period of four weeks of receipt/Production of copy of this order.

The writ petition stands allowed

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... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mrs.Nivedita Nirvikar, Sr. Adv.  
Mr.Shambhu Sharan Kumar, Adv.  
For the Respondent/s : Mr.Sheo Shankar Prasad (SC-8)

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**  
**ORAL JUDGMENT**  
**Date : 19-03-2024**

1. The present writ petition has been filed for quashing the decision taken in the meeting of District Compassionate Appointment Committee, Sitamarhi, as far as the petitioner is concerned, as is contained in Memo No.156 dated 04.03.2021, whereby and whereunder the petitioner has been denied compassionate employment on the ground that though the circular of the General Administration Department, Government of Bihar, Patna, dated 30.08.2019, provides that an incumbent is required to file an application for grant of compassionate employment, within a period of one year of having attained majority, but the petitioner had filed the application thereafter,



hence his case is time barred.

2. The brief facts of the case, according to the petitioner are that the father of the petitioner, namely, Late Abdul Khaliq died in harness on 02.06.2015, while working on the post of Work Supervisor at Public Health Sub-Division, Pupri, Block-Parihar, District-Sitamarhi. The petitioner was minor at the time of death of his father, inasmuch as his date of birth is 15.05.1998 and he attained majority on 15.05.2016, whereafter, he applied for grant of compassionate employment on 21.01.2020, i.e. within the stipulated period of five years of the death of his father, as provided for in the main circular issued by the General Administration Department, Government of Bihar, Patna, dated 27.04.1995.

3. The learned senior counsel for the petitioner has submitted that the reason furnished by the District Compassionate Appointment Committee, Sitamarhi in the impugned memo dated 04.03.2021, to hold the case of the petitioner for appointment on compassionate ground to be time barred, is not only illegal but also fallacious, inasmuch as the petitioner was not required to avail the benefit of the subsequent circular dated 30.08.2019, whereby and whereunder, it has been postulated that in case the incumbent is not major and also does not attain majority within the stipulated time period of five years,



prescribed for filing the application for grant of compassionate employment, from the date of death of the Government employee, then he would be entitled to file an application for grant of compassionate employment, within a period of one year of him/her having attained majority, whereas, in the present case, the prescribed time limit of five years for filing application for appointment on compassionate ground was yet to expire, on the day, the petitioner had filed the requisite application i.e. on 21.01.2020 and moreover, the petitioner had, only upon attaining majority, filed an application for appointment on compassionate ground and that too within the prescribed time limit of five years from the date of death of his father, i.e. 02.06.2015.

4. It is thus submitted by the Ld. Counsel for the petitioner that the application of the petitioner, filed for appointment on compassionate ground, is required to be processed on merits, especially, in view of the recommendations made by the Executive Engineer, Public Health Division, Sitamarhi, vide letter dated 05.09.2022. It is next contended that similarly situated person, whose case was also rejected on the ground of being time barred, vide serial no.2 of the aforesaid memo dated 04.03.2021, has already been granted compassionate employment vide order dated 10.03.2022, passed by the District Magistrate, Sitamarhi, hence similar treatment ought to be meted



out to the petitioner as well.

5. Per contra, though the learned counsel for the respondents has opposed the present writ petition, however, he has not been able to point out as to how and under what provision of law, the case of the petitioner has been rejected as being time barred, by the aforesaid memo dated 04.03.2021, nonetheless, it is submitted that in case this Court so directs, the case of the petitioner shall definitely be considered afresh, on merits, as per the recommendations made by the Executive Engineer, Public Health Division, Sitamarhi, vide letter dated 05.09.2022.

6. I have heard the learned counsel for the parties and perused the materials available on record, from which, it is apparent that the father of the petitioner died on 02.06.2015, hence the petitioner was entitled to file an application for appointment on compassionate ground on or before 02.06.2020, as per the aforesaid Government's circular dated 27.04.1995, nonetheless, he had filed the requisite application much before expiry of five years i.e. on 21.01.2020, being a major and possessing the requisite qualifications, hence it was incumbent upon the respondents to process his claim for appointment on compassionate ground on merits and not reject his application as being time barred by relying on a circular dated 30.08.2019,



issued by the General Administration Department, Government of Bihar, Patna, which is not at all applicable in the facts and circumstances of the present case, inasmuch as it is not the case of the respondents that the petitioner had attained majority after lapse of five years of the death of the father of the petitioner. Thus, this Court finds that the decision of the District Compassionate Appointment Committee, Sitamarhi qua the petitioner herein, as contained in memo dated 04.03.2021, is perverse, illegal and fit to be set aside, hence is quashed. The respondents are directed to consider the case of the petitioner for appointment on compassionate ground afresh, on merits, in terms of the recommendations made by the Executive Engineer, Public Health Division, Sitamarhi, vide letter dated 05.09.2022 and pass appropriate orders, within a period of four weeks of receipt/production of a copy of this order.

7. The writ petition stands allowed to the aforesaid extent.

**(Mohit Kumar Shah, J)**

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.03.2024
Transmission Date	NA

