

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 15452 of 2022

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1. Manoj Kumar Son of Late Deo Das Singh @ Deo Das Yadav Resident of Village and P.O.- Chandanpura, P.S.- Tilauthu and District- Rohtas.
 2. Saurav Kumar, Son of Late Brij Kishore Prasad Resident of Mohalla- Gandhi Nagar, Ghora Sahan, P.O. and P.S.- Ghora Sahan and District- East Champaran (Motihari).

... .. Petitioner/s

Versus

1. The State of Bihar Through its Secretary, Industry Department, Government of Bihar, New Secretariat, Patna.
2. The Director of Industries, Industrial Department, Government of Bihar, Patna.
3. The Secretary, Personnel and Administrative Old Secretariat, Government of Bihar, Patna.
4. The Bihar State Handloom and Handi Crafts Corporation Limited, Udyog Bhawan, Gandhi Maidan, Patna, through its Managing Director.
5. The Managing Director, Bihar State Handloom and Handi Crafts Corporation Limited, Udyog Bhawan, Gandhi Maidan, Patna.

... .. Respondent/s

Appearance:

For the Petitioner/s : Md. Abu Haidar, Adv.
For the State : Mr. Subhash Pd. Singh (Ga3)
For the Respondents : Dr. Anand Kumar, Adv.
Mr. Rajan Prakash, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 20-03-2024

The present writ petition has been filed for quashing the order dated 18.12.2014, passed by the Managing Director of the Bihar State Handloom and Handicrafts Corporation Ltd., Patna, (hereinafter referred to as “the Corporation”), whereby and whereunder the applications of the petitioners for appointment



on compassionate ground have been rejected. It has been further prayed to direct the Respondents to consider the case of the petitioners for appointment on compassionate ground.

2. The brief facts of the case, according to the petitioners, are that the father of the petitioner no. 1 died in harness on 22.10.2007, while posted as Clerk in the regional office of the Respondent-Corporation at Tilauthu, Rohtas, whereas the father of the petitioner no. 2 died in harness on 20.4.2008, while posted as Salesman (Class IV employee) at Sales Centre Motihari, belonging to the Respondent-Corporation.

3. It is the further case of the petitioners that while the petitioner no. 1 had filed an application for grant of compassionate employment on 04.03.2008, the petitioner no. 2 had filed it on 20.09.2008, however, when no heed was paid by the Respondent-Corporation, the petitioners were constrained to approach this Court, by filing a writ petition bearing CWJC No. 2555 of 2014, which was disposed of, by a coordinate Bench of this Court, vide order dated 07.02.2014, with a direction to the Managing Director of the Respondent-Corporation to take a final decision upon the applications filed by the petitioners for appointment on compassionate ground. Thereafter, the Managing Director of the Respondent-Corporation, by the



impugned order dated 18.12.2014, has been pleased to reject the applications of the petitioners, filed for appointment on compassionate ground, on the ground that the financial condition of the Respondent-Corporation is very bad and it is not even in a position to pay salary etc. to its workers as also the pensionary benefits of its retired employees, apart from the fact that none of the units of the Respondent-Corporation are working and all the activities of the Respondent-Corporation are stalled/closed, hence, it is not possible to make any new appointments.

4. The Ld. counsel for the petitioners has submitted that the financial status of the Corporation is good, hence, there is no impediment in making new appointments, thus, the petitioners should be granted appointment on compassionate ground.

5. Per contra, the learned counsel for the Respondent-Corporation has submitted that the present writ petition is itself barred by the principle of delay and laches, inasmuch as a decision of the year, 2014, is sought to be challenged belatedly, after about eight years in the year, 2022, by way of the present writ petition. Moreover, it is submitted that the financial condition of the Respondent-Corporation is very bad, it is not functioning at all and it has been rendered defunct, hence, no



new appointments can be made.

6. The learned counsel for the Respondent-Corporation has also referred to a judgment, rendered by a coordinate Bench of this Court, dated 12.05.2022, passed in CWJC No. 7797 of 2021 (Vishal kumar Gupta Vs. The State of Bihar & Ors.), to submit that even in a recent case, wherein the father of the writ petitioner therein had died on 27.08.2018, a coordinate Bench of this Court has denied any relief pertaining to appointment on compassionate ground on the ground that the Respondent-Corporation is suffering from severe financial crunch.

7. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that the present writ petition is fit to be dismissed on the ground of delay and laches alone, inasmuch as the petitioners have approached this Court belatedly, after a lapse of about eight years. The law, in this regard, is well-settled, inasmuch as the Hon'ble Apex Court, in a catena of judgments, has held that while exercising extraordinary and equitable jurisdiction under Article 226 of the Constitution of India, the Constitutional Court, while protecting the rights of citizens, should simultaneously keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches



the Court belatedly, at his own leisure or pleasure, the writ Court is not required to grant any indulgence to such indolent person and on the ground of delay and laches alone, the writ Court ought to throw the petition overboard at the very threshold. In this regard, reference be had to the following judgments:-

(i). ***Chennai Metropolitan Water Supply & Sewerage Board & Others vs. T.T.Murali Babu***, reported in (2014) 4 SCC 108.

(ii). ***State of Uttranchal & Anr. vs. Shiv Charan Singh Bhandari & Ors.***, reported in 2013 AIR SCW 6627.

(iii). ***C. Jacob vs. Director of Geology & Mining & Anr.***, reported in AIR 2009 SC 264.

(iv). ***State of Jammu & Kashmir vs. R.K. Zalpuri & Others***, reported in AIR 2016 SC 3006.

(v). ***State of Tamil Nadu vs. Seshachalam***, reported in (2007) 10 SCC 137.”

8. Thus, considering the principles laid down by the Hon’ble Apex Court in the aforesaid judgments, as also considering the maxim- “equity aids the vigilant and not those who slumber on their rights”, this Court is of the view that since the petitioners have not filed the writ petition within a reasonable period of time, this Court is not under any legal obligation to entertain the writ petition, especially considering the fact that the petitioners have not offered any reason whatsoever, for the enormous delay, which has taken place in approaching this Court, hence, the present writ petition is dismissed on the ground of delay and



laches.

9. Yet another aspect of the matter is that it is a well-settled law that compassionate employment is not a vested right and in any view of the matter, the object for grant of compassionate employment is to enable the family to tide over the immediate financial crisis, which it faces at the time of death of the sole bread earner and not to reserving a job for one of the dependents, hence, compassionate employment is not required to be offered after a lapse of considerable time, which in the present case is about 16 years of the death of the father of the petitioners, otherwise the very object of the compassionate employment scheme would be violated, thus, the case of the petitioner for appointment on compassionate ground merits no consideration. Reference, in this connection, be had to a judgment, rendered by the Hon'ble Apex Court in the case of ***Umesh Kumar Nagpal vs. The State of Haryana & Ors.***, reported in ***(1994)4 SCC 138***.

10. Be that as it may, even otherwise the petitioners cannot be granted any relief, inasmuch as admittedly the Respondent-Corporation is defunct, is suffering from grave financial crisis, is not even in a position to pay salary etc. to its workers as also the pensionary benefits of its retired employees and moreover, it



is also not in a position to make new appointments, hence, neither the Respondent-Corporation can be forced to make any new appointments nor compassionate employment is a vested right so as to warrant issuance of directions to the Respondent-Corporation for appointing the petitioners on compassionate ground, apart from the fact that compassionate appointment can neither be claimed nor offered after lapse of considerable time. The present case is squarely covered by a judgment rendered by a coordinate Bench of this Court in the case of Vishal kumar Gupta (Supra).

11. Having regard to the facts and circumstances of the case and for the forgoing reasons, I do not find any merit in the present writ petition, hence, the same stands dismissed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
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