

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.199 OF 2005

(Arising out of SLP (C)No.10164 of 2003)

SYED KHADIM HUSSAIN

Petitioner(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

OR D E R

Leave granted.

The appellant's father was working as a peon in the Public Works Department of the

Government of Bihar. He died in harness on 12.9.1991 leaving behind the widow and five minor

children. After the death of the appellant's father the appellant's mother submitted an application for

appointment on compassionate grounds on 2.4.1993. This application was withdrawn but it was

rejected for the reason that it was not in the prescribed proforma. The appellant herein was a child

aged about 9 years at the time of the death of his father. He submitted an application on 7.9.1995. This

application was rejected by the authorities on 12.10.2001 by holding that the appellant at the time of

filing the application was aged only 13 years and 3 months and 23 days old and, therefore, he could not

be appointed in government service.

The appellant challenged the rejection of his application by way of a writ petition. Both

the single Judge as well as the Division Bench rejected the same on the ground that the application was

belated and it should have been filed within five years from the date of death of the employee. This was

challenged before us by way of this appeal.

We have heard the appellant's counsel and counsel for the respondent. Counsel for the

appellant points out that after the death of the government servant his wife submitted an application

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and it was rejected without giving any reasons and the counsel for the State submits that the same must

have been rejected as it was not in the prescribed format. If the applicant had not submitted the

application in the prescribed form the State authorities should have asked the applicant to submit the

application in the prescribed format giving out the details of the procedure. In the matters of

compassionate appointments the authorities should extend the service in an effective manner so that the

eligible candidate may avail the opportunity. Though the orders of rejection of the application of the

appellant's mother was not challenged the appellant pursued the matter and submitted the application

later. The contention of the counsel for the State is that the application filed after 5 years after the date

of death of the government employee will not be considered and he further submitted that the

application filed 7.9.1995 was rightly rejected by the authorities.

We are unable to accept the contention of the counsel for the State. In the instant case,

the widow had applied for appointment within the prescribed period and without assigning any

reasons the same was rejected. When the appellant submitted the application he was 13 years' old and

the application was rejected after a period of six years and that too without giving any reason and the

reason given by the authorities was incorrect as at the time of rejection of the application he must have

crossed 18 years and he could have been very well considered for appointment. Of course, in the rules

framed by the State there is no specific provision as to what should be done in case the dependents are

minors and there would be any relaxation of age in case they did not attain majority within the

prescribed period for submitting application.

As the widow had submitted the application in time the authorities should have

considered her application. As eleven years have passed she would not be in a position to join the

government service. In our opinion, this is a fit case where the appellant should have been considered in

her place for appointment. Counsel for the State could not point out any other circumstance for which

the appellant would be dis-entitled to be considered for appointment. In the peculiar facts and

circumstances of this case, we direct the respondent authorities to consider the application of the

appellant and give him appropriate appointment within a reasonable time at least within a period of

three months. The appeal is disposed of in the above terms. No costs.

.....J.

K.G. BALAKRISHNAN)

.....J.

TARUN CHATTERJEE)

NEW DELHI;

7TH JANUARY, 2005

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ITEM NO.208

COURT NO.7

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10164/2003

(From the judgement and order dated 22/01/2003 in L.P.A. No. 1322/2002
of HIGH COURT OF

JUDICATURE AT PATNA)

SYED KHADIM HUSSAIN

Petitioner(s)

VERSUS

STATE OF BIHAR & ORS.

Respondent(s)

(With prayer for interim relief)

(FOR FINAL DISPOSAL)

Date: 07/01/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE Mr. JUSTICE TARUN CHATTERJEE

For Petitioner(s)

Mr. Anis Suhrawardy, Adv.

Mrs. Shamama Anis, Adv.

Mr. S. Mehdi Imam, Adv.

Mr. Sameer Ranjan, Adv.

For Respondent(s)

Mr. B. B. Singh, Adv.

Mrs. Sunita R. Singh, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order.

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(G.V. Ramana)

(Veera Verma)

Court Master

Court Master

(Signed order is placed on the file)