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SANJAY KUMAR  
v.  
THE STATE OF BIHAR AND ORS.

AUGUST 28, 2000

B

[M. JAGANNADHA RAO AND DORAISWAMY RAJU, JJ.]

C

*Service Law—Compassionate appointments—Object of—Compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood—Death of employee while in service—Application made by deceased employee's son for compassionate appointment—On the date of application son being minor not eligible for appointment—Rejection of request for appointment—Writ—Dismissal by High Court—Appeal before Supreme Court—Held, there cannot be reservation of a vacancy till such time as the applicant becomes a major after a number of years, unless there is some specific provisions.*

D

*Chandra Bhushan v. State of Bihar, (1997) 1 PLJR 626, disapproved.*

*Director of Education & Anr. v. Pushpender Kumar & Ors., (1998) 2 PLJR SC 181, referred to.*

E

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 12876 of 2000.

F

From the Judgment and Order dated 10.3.2000 of the Patna High Court in L.P.A. No. 1194 of 1999.

M.P. Verma, R.P. Singh, Ms. Amita Pandey and Krishnanand Pandey for the Petitioner.

The following Order of the Court was delivered :

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The petitioner was 10 years old when his mother died, while she was working as a Excise Constable. The petitioner made an application on 2.6.1988, soon after the death of his mother, seeking compassionate appointment. That was rejected on 10.12.1996, as time-barred. A fresh application was filed on 26.12.96 and that was also rejected on 21.4.1997 for the same reason. Against the said order, the petitioner moved the High Court. The learned Single Judge

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of the High Court dismissed the writ petition on 24.8.99 and the said judgment was affirmed by the Division Bench on 10.3.2000. Against order that this SLP has been preferred.

Learned Senior counsel appearing on behalf of the petitioner has placed strong reliance on the decision of a learned Single Judge of the Patna High Court in *Chandra Bhushan v. State of Bihar*, (1997) 1 PLJR 626. Learned senior counsel points out that it was held in that case that an applicant's right cannot be defeated on the ground of delay caused by authorities which was beyond the control of the applicant. Learned senior counsel further points out that instead of following the above judgment, the same learned Judge has now held on 21.4.1997 that the application is time-barred. Learned counsel has placed before us a judgment of this Court in *Director of Education & Anr. v. Pushpendra Kumar & Ors.*, (1998) 2 PLJR SC 181. He submits that, in this case, a direction was given to create supernumerary posts.

We are unable to agree with the submissions of the learned senior counsel for the petitioner. This Court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in *Director of Education & Anr. v. Pushpendra Kumar & Ors.* supra. It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.88, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there is some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.

We are, therefore, unable to agree with the view expressed in *Chandra Bhushan's* case.

For the reasons stated above, we hold that there are no merits in this SLP and the same is accordingly dismissed.

T.N.A.

Petition dismissed.