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**(2015) 04 JH CK 0126**  
**In the Jharkhand High Court**  
**Case No : WP(S) No. 4558 of 2013**

Chhotu Manjhi

APPELLANT

Vs

Central Coalfields Limited and Others

RESPONDENT

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**Date of Decision :** 29-04-2015

**Acts Referred:**

**Citation :** (2015) 2 JLJR 541

**Hon'ble Judges :** Aparesh Kumar Singh, J

**Bench :** Single Bench

**Advocate :** Nand Kishore Prasad Sinha, for the Appellant; A.K. Das and Arbind Kumar, Advocates for the Respondent

**Final Decision :** Dismissed

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## Judgement

Aparesh Kumar Singh, J—Heard counsel for the parties. Petitioner's father who was missing since 1999, is said to have died on 24.10.2006 in harness while working as Piece Rated Worker (PRW) in Kuju Colliery under the CCL, now under Ramgarh district. His claim for compassionate appointment has been rejected by the impugned letter dated 21.5.2013 (Annexure-9) passed by the Respondent No. 3 - General Manager (P&IR), CCL on the ground that the employee remained absent from June 1999 to October 2006 and his family sustained for seven long years. Apart from that, application said to have been made on 26.2.2007 by the applicant, is not available in original and authenticity of the said application cannot be established.

2. Counsel for the petitioner submits that Annexure-4 application dated 26.2.2007 is validly received in the office of the Welfare Officer, Kuju Colliery, CCL. Photocopy of the said application has been forwarded by letter dated 4.3.2013 (Annexure-8) to the Staff Officer (P&A), Kuju Area by Welfare Officer, Kuju Colliery. He submits that there is no dispute that he made an application, but when the respondents are not able to find the original application, petitioner's claim for compassionate appointment cannot be denied on that ground.

3. According to the respondents, who have also filed their counter affidavit, petitioner's application was made in the prescribed format on 14.8.2012 after a gap of near about six years of date of death in the circumstances when the late employee was himself absenting from duty from June 1999 till his death on 24.10.2006 for more than seven years. According to the respondents, late employee was suffering from mental disturbance, as reported by his family members. At paragraph-13 of the counter affidavit, it has been categorically stated that the original copy of the said application claimed to have been submitted on a plain paper, is not available in the office of Colliery. As such, its validity or authenticity cannot be established. Counsel for the respondents submits that therefore, petitioner's claim being delayed beyond the stipulated period of one and half years, could not have been entertained and his assertion that he has made application in 2007, is disputed by the respondents.

4. Counsel for the petitioner has reiterated his submissions and replied to the counter affidavit by filing a rejoinder. He also relies upon a Circular dated 21.1.2012 (Annexure-10) by which cases of compassionate appointment earlier rejected on the ground of delay not beyond one and half years, are being reconsidered. Having heard learned counsel for the parties and in the facts and circumstances; as have been noticed hereinabove, the contention of the petitioner that he had applied on 26.2.2007 vide Annexure-4 being disputed by the respondent, this Court cannot determine the issue as the same are based upon the questions of fact which are not admitted between the parties. The only application which is made in the prescribed format by the petitioner is of 14.8.2012 which has been made after gap of six years after date of death. In that view of the matter, claim for compassionate appointment cannot be allowed in view of the settled position of law and beyond the time prescribed under the relevant N.C.W.A. Circular in vogue, by the competent authority prescribing the upper limit of one and half years from the date of death for making such an application. The writ petition is accordingly dismissed.