

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5323 of 2023

Chanda Kumari W/o-Late Guddu Kumar

... .. Petitioner/s

Versus

1. The Union of India through the Home Secretary, Ministry of Home Affairs, Government of India,
2. The Secretary, Department of Personnel and Training (DoPT), Government of India,
3. The Director-General, Central Industrial Security Force (CISF), Ministry of Home Affairs, Government of India,
4. The Inspector General, Central Industrial Security Force (CISF),
5. The Sr. Commandant/Assistant Inspector General (AIG) (ES), Central Industrial Security Force (CISF),
6. The Deputy Inspector General, Central Industrial Security Force (CISF), CISF Unit SSG,
7. Deputy Inspector General/Ops
8. The Group Commandant, Central Industrial Security Force (CISF),

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Aatish Kumar, Advocate.
For the UOI : Mr. Amrendra Nath Verma, Sr. Pancel Counsel.
Mr. Abhirup, JC to Sr. C.G.C.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-10-2024

Heard Mr. Aatish Kumar, learned counsel
appearing on behalf of the petitioner and Mr. Amrendra Nath
Verma, learned counsel along with Mr. Abhirup, learned counsel
appearing on behalf of the Union of India.

2. The petitioner in paragraph no. 1 of the present



writ petition has sought, *inter alia*, following relief(s), which is reproduced hereinafter:-

“a. For setting aside the letter no. E-32014/CA/GEN/2020-33439-(E) dated 04.01.2023 (Annexure-6) issued by the Respondent No. 5, The Sr. Commandant/Assistant Inspector General (AIG)(ES), Central Industrial Security Force (CISF), ES Headquarters, Ranchi, Jharkhand informing therein that the compassionate appointment to the Petitioner is only possible, when being successful in all respect of selection (i.e. PST, Typing Test Hindi or English and medical) and has rejected the selection of the petitioner on the ground of lesser height i.e. 142.5 cm instead of 147.5 cm, required for compassionate appointment which is in teeth of the policy since the petitioner is entitled for compassionate appointment in terms of the "Para 2 of O.M. No.14014/2/2009-Estt. (D) dated 03.04.2012" (Annexure -9) issued by the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), Government of India.

b. For directing the Respondents to appoint the petitioner on compassionate appointment forthwith as the petitioner has the responsibility to take care of her two kids named Mahi Rani (aged about 6 years) and Yash Raj (aged about 3 years) along with the old-aged ailing Father-in-law (aged about 70 years) and Mother-in-law (aged about 65 years) who were totally dependent upon the late husband of the petitioner having no other source of income.

c. For the grant of suitable compensation along with the interest to the petitioner for the difficulties, agony and loss suffered by the petitioner and her family due to the unnecessary delay in allowing her compassionate appointment since her husband died on 10.10.2019 and she is running from pillar to post till date and has been suffering the acute financial strain in maintaining her family despite being the wife of a martyr who died in course of discharging his official duty.

d. For the grant of any other reliefs for which the Petitioner has been found entitled in the eye of the law.

3. Petitioner is aggrieved by the communication made by the Sr. Commandant / Assistant Inspector General (ES), C.I.S.F., ES Headquarters, Ranchi vide order dated



04.01.2023 by which the claim of the petitioner for appointment on compassionate ground for Group 'C' post was rejected time and again after giving opportunity to the petitioner on the ground that the height of the petitioner is 142.5 cm and the required height for OBC candidate for being appointed on the post of Constable (GD)/Clerk is 155 cm. The petitioner was given relaxation of 7.5 cm and she could not meet the required height. As such, in spite of fulfilling the education qualification and other terms and conditions, the authority rejected the claim of the petitioner for being appointed on Group 'C' post, being pre-determined to reject the claim of the petitioner by not considering to appoint the petitioner on compassionate ground on any of the Group 'D' post. Learned counsel on these grounds seeks interference of this Court, in so far as the order dated 04.01.2023 is concerned.

4. Law in respect of compassionate appointment is well settled in the case of **Umesh Kumar Nagpal v. State of Haryana and Others**, reported in (1994) 4 SCC 138; **The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.** passed in **Civil Appeal nos. 8842-8855 of 2022** and **Jagdish Prasad v. State of Bihar** reported in (1996) 1 SCC 301.

5. The Apex Court relying on the ratio of *Umesh*



Kumar Nagpal v. State of Haryana and Others reported in (1994) 4 SCC 138, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

- i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.*
- ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*
- iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.*
- iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.*
- v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source.*

6. In the case of ***Jagdish Prasad v. State of Bihar***



reported in *(1996) 1 SCC 301*, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

7. However, considering the Office Memorandum dated 03.04.2012, I find that the decision of the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) communicated by the Under Secretary, Government of India itself contains to give some relaxation for considering the case for appointment of the heirs of the deceased, even at a belated stage for Group 'D' posts. In this regard, I find it apt to reproduce Column No.3 as under:

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| 3. Whether belated case of compassionate appointment against the erstwhile Group 'D' posts can be considered now after regularization of all Group 'D' employees as Group 'C' employees. | The belated case of compassionate appointment are to be considered as per the revised recruitment rules for the MTS posts. |
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8. The authority proceeded to consider the case of the petitioner who had applied for compassionate appointment on 07.11.2019 just after the death of the husband of the petitioner in harness on 10.10.2019 and for one reason or another, the case



of the petitioner was rejected and lastly vide order dated 04.01.2023, and I find that the same will not said to be any delay caused on the part of the petitioner. I am conscious of the fact that in view of the law laid down by the Apex Court as discussed hereinabove, compassionate appointment is made immediately just after the death of the sole bread earner of the family so that the family may not suffer and starve. However, considering the fact that authorities can consider the case of the petitioner, I find that they should take up the case of the petitioner positively taking into consideration the financial condition of the petitioner upon whose behalf the learned counsel upon instruction submitted before this Court that the petitioner is even willing for being considered to be appointed on any Group 'D' post.

9. The order dated 04.01.2023 issued under the signature of Sr. Commandant / Assistant Inspector General (ES), C.I.S.F., Ranchi is interfered to the above extent for considering the case of the petitioner for her appointment on any Group 'D' post to which she is eligible in accordance with the governing circulars for Group 'D' post, expeditiously so that the petitioner may not further suffer and her expectation for being appointed may not be frustrated which has been generated till



date by the authorities, as a result of their own action.

10. The writ petition is disposed of restricting the order dated 04.01.2023 to be illegal, in so far as the Authority has only considered the case of petitioner for Group 'C' post.

(Purnendu Singh, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	30.10.2024
Transmission Date	N.A.

