

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Item No. 1

W.P.(C) No. 492 of 2024

Salam Pinky Singh

... Petitioner

- Versus -

Union of India & 4 Ors.

... Respondents

B E F O R E
HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

ORDER
(Oral)

28.08.2024
(Siddharth Mridul, CJ)

[1] Heard Mr. H. Nabachandra, learned counsel appearing on behalf of the petitioner and Mr. Kh. Samarjit, learned DSGI assisted by Mr. Armananda, learned counsel appearing on behalf of the respondents.

[2] The present petition, under Article 226 of the Constitution of India, has been instituted on behalf of Sri Salam Pinky Singh, assailing an order dated 26.04.2024 passed by the Central Administrative Tribunal, Guwahati, dropping the contempt petition filed by him and discharging the notice issued to the Union of India in relation to an earlier order dated 21.07.2023 passed by the Ld. Central Administrative Tribunal in O.A. No. 042/0178/2023 filed by the petitioner herein, wherein the Director General, All India Radio and Doordarshan/competent authority was directed to take a final decision with regard to the former's compassionate appointment

after granting an opportunity of personal hearing and communicating the decision taken to him by way of reasoned and speaking order.

[3] It is observed that in terms of the direction issued by the Ld. Central Administrative Tribunal, vide order dated 21.07.2023 in the O.A. No. 042/0178/2023 filed by Sri Salam Pinky Singh, the petitioner herein, the head of office, the Akashvani Imphal passed a speaking order being No. A-4406/16/2023-ADMIN-AIR IMPHAL/E-942, dated 23.04.2024. In order to appreciate the contention canvassed before this Court, it would be relevant and proper to extract the said speaking order in-extenso; which reads as follows:

"PRASAR BHARATI
(India's Public Service Broadcaster)
Akashvani Imphal

No. A-4406/16/2023-ADMIN-AIR IMPHALIE-942 Dated the 23rd April, 2024

SPEAKING ORDER

1. Whereas, the Hon'ble CAT, Guwahati disposed of OA No. 178/2023 filed by Shri Salam Pinky Singh, son of Late Shri Salam Priyokumar Singh, Ex-Announcer. Akashvani Imphal vs Uol & Others vide order dated 21.07.2023 with a direction that the respondents shall take a final decision with regard to the compassionate appointment of the applicant after granting him an opportunity of personal hearing and communicate his decision by way of a reasoned and speaking order.

2. Whereas, personal hearing has been conducted on 04.09.2023 and as per the extant rules and the instructions of DoPT, only 5% of Direct Recruitment vacancies of Group 'C' posts are reserved to be filled up through appointment on compassionate grounds.

3. Whereas, keeping in view the policy of compassionate appointment envisaged by Department of Personnel & Training, Government of India, a Standing Operating Procedure (SOP) with grading points has been devised by Prasar Bharati Secretariat and Screening Committee is constituted to evaluate all cases. The Screening Committee assesses and takes into account monthly family pension, movable- immovable property inherited by the applicant, the length of service rendered, post-retirement benefits, monthly income, number of minor children, dependents & unmarried daughters and allots points accordingly.

Thereafter, candidates scoring the highest points and as such most deserving amongst the applicants are recommended for appointment subject to availability of vacancies for compassionate appointment in a particular recruitment year.

4. Whereas, the Committee met on 11.10.2021, 13.10.2023 and 09.04.2024 and scrutinized all the 115 applications of North-East Zone and allotted grading in terms of Standard Operating Procedure. The Committee has gone through the details of all applications in detail taking into consideration pension and other benefits received and also the responsibility of looking after the dependents and the urgent needs for relief etc. The SOP grading has been worked out on the basis of details given in original applications submitted by the applicant.

5. Whereas, there are 07 posts (for Group 'C') earmarked for compassionate appointment, from 2014 to 2020 (as per stipulation of 5% of total vacancies in a year in view of the DoPT guidelines) in North-East Zone. Accordingly, the committee considered all the cases including the case of the applicant i.e. Sh. Salam Pinky Singh, son of Late Shri Salam Priyokumar Singh, Ex-Announcer, Akashvani Imphal.

6. Whereas, on the basis of SOP grading, Sh. Salam Pinky Singh scored only 32 points as against 103, 95, 89, 87, 87, 81 and 79 points respectively scored by recommended 7 applicants for compassionate appointment. Accordingly, rest of 109 cases including that of Sh. Salam Pinky Singh could not be recommended.

7. However, the candidates who could not secure highest points may re-apply if they wish to be considered once again for compassionate appointment in subsequent years.

8. In the view of above facts and circumstances, the application/representation for compassionate appointment has been disposed of by the competent authority which is accordingly hereby communicated to Sh. Salam Pinky Singh.

This issues with the approval of CEO, Prasara Bharti.

*Sd/-
N. Nandakumar Singh
(Head of Office)
DE, Akashvani Imphal*

*Shri Salam Pinky Singh
Son of Late Sh. Salam Priyokumar Singh
Lamdeng Khunou, P. O. Lamsang, P. S. Lamsang-795113
Imphal West, Manipur."*

[4] It is, in view of the contents of the above extracted speaking order dated 23.04.2024, that the Ld. Central Administrative Tribunal disposed of, vide impugned order dated 26.0.2024, the contempt petition instituted on behalf of the petitioner in the following terms.

"Order of the Tribunal"

Today, Sri V.K. Bhatra, learned Sr. CGSC appearing on behalf of the alleged contemnors has placed one Speaking Order dated 23.04.2023 and has submitted that they have complied with the Order dated 21.07.2023 passed by this Tribunal in O.A. No. 042/00178/2023.

2. *Let the copy of the said Speaking Order be kept on record.*

3. *It is noted that this Tribunal vide Order dated 21.07.2023 in O.A. No. 042/00178/2023 had directed the alleged Contemnor No./Respondent No. 3 in the O.A. to take final decision with regard to the compassionate appointment of the applicant after granting him an opportunity of personal hearing.*

4. *We have perused the Speaking Order dated 23.04.2024 and found that personal hearing was granted to the applicant on 04.09.2023 and on the basis of the SOP grading, applicant scored only 32 points and therefore, his case was not recommended for compassionate appointment along with others. Para No. 5 & 6 of the said Speaking Order reads as follows:*

"5. Whereas, there are 07 posts (for Group 'C') earmarked for compassionate appointment from 2014 to 2020 (as per stipulation of 5% of total vacancies in a year in view of the DoPT guidelines) in North-East Zone. Accordingly, the committee considered all the cases including the case of the applicant i.e. Sh. Salam Pinky Singh, son of Late Shri Salam Priyokumar Singh, Ex-Announcer, Akashvani Imphal.

6. Whereas, on the basis of the SOP grading, Sh. Salam Pinky Singh scored only 32 points as against 103, 95, 89, 87, 87, 81 and 79 points respectively scored by recommended 7 applicants for compassionate appointment. Accordingly, rest of 109 cases including that of Sh. Salam Pinky Singh could not be recommended."

5. *Therefore, in our considered opinion, the Order dated 21.07.2023 passed by this Tribunal in O.A. No.042/00178/2023 has been substantially complied with.*

6. *Accordingly, C.P. is dropped. Notices are discharged.*

7. However, applicant is at liberty to challenge the aforesaid Speaking Order dated 23.04.2024, if so advice.

Sd/-
Smt. Urmita Datta Sen
Hon'ble Member (J)

Sd/-
Dr. Sumeet Jerath
Hon'ble Member (A)''

[5] On conjoint reading of the aforesaid impugned orders dated 23.04.2034 and 26.04.2024 rendered by the Akashwani Imphal and Ld. Central Administrative Tribunal respectively, the following factual situation emerges;

(i) That, the petitioner's original application No. 042/0178/2023 was allowed by the Ld. Central Administrative Tribunal, vide order dated 21.07.2023 thereby directing the competent authority to take a final decision on the former's application for compassionate appointment after granting an opportunity of personal hearing and ensuring communication of the decision to him by way of reasoned and speaking order.

(ii) That, the competent authority, vide impugned order dated 23.04.2024, disposed of the petitioner's application after affording him an adequate opportunity of being heard in person and arriving at the conclusion that he had obtained inadequate points in terms of the subject SOP grading to be granted compassionate appointment.

[6] In view of the above speaking order dated 23.04.2024, the Ld. Central Administrative Tribunal, vide the impugned order dated 26.04.2024, dropped the contempt proceedings and discharged the notice issued to the competent authority.

[7] Vide the said impugned order dated 26.04.2024, however, the petitioner was granted liberty to challenge the said speaking order dated 23.04.2024, if so advised, in accordance with law.

[8] It is trite to state that the relief of compassionate appointment cannot be adjudicated by the High Court in the first instance for lack of subject matter jurisdiction. The order, being assailed in the present proceeding, is within the subject matter jurisdiction of the Central Administrative Tribunal, Guwahati. Even otherwise, substantive relief cannot be considered/granted in a proceeding for contempt.

[9] Consequently, the present writ petition is devoid of merit and is, accordingly, dismissed, while deserving liberty to the petitioner to assail the speaking order dated 23.04.2024, if so advised, in accordance with law, before the forum having subject jurisdiction over the substantive relief.

JUDGE

CHIEF JUSTICE

Bipin