

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11 of 2015

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Deena Nath Thakur @ Deena Nath Kumar Son of Late Jugal Thakur and Surti Devi Resident of Village - Sonbarsa Dih. P.S- Maniari, District - Muzaffarpur.

.... Petitioner/s

Versus

1. The Union of India its Chairman, Water Resources Ministry Central Ground Water Board, Bhujal Bhawan, N.II-IV . Faridabad -121001.
2. Administrative Officer, Central Ground Water Board Ministry of Water Resources Central Headquarter, Bhujal Bhawan. N.II-IV. Faridabad-121001.
3. Executive Engineer, C.G.W.B., M.E.R. Lok Nayak Bhawan, Dak Bunglow Chuk, P.S- Kotwali, Patna. District - Patna, Bihar. null null
4. Savita Sahay Wife of Late A.N. Sahay at Present Safai Karamchari (Peon), C.G.W.B., M.E.R Lok Nayak Bhawan Dak Bunglow chuk, P.S - Kotwakli ,Patna District - Patna (Bihar).
5. Amit Kumar Son of Late Mohan singh at present Working and Posted as Daftari . C.G.W.B Bhopal District- Bhopal, Madhya Pradesh. India.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Shahnawaz Ali, Adv

For the Respondent/s : Mr. Rajesh Kumar Verma C.G.C

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 15-04-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application
reads as follows:-

“A writ order and direction in the nature of certiorari for quashing of the letter no. 406 dated 16th June, 2014 and letter no. 3682 dated 08.05.2014 issued by Administrative Officer, Ministry of Water Resources, Central Ground Water Board, Bhujal Bhawan, NH-IV, Faridabad-121001, be issued.

A writ, order and direction the nature of mandamus directing and commanding the respondent to appoint the

petitioner on compassionate ground in the Ministry of Water Resources Department in Central Ground Water Board, Bhujal Bhawan, NH.IV, Faridabad-121001, be issued.”

The petitioner seeks employment in Central Ground Water Board, Ministry of Water Resources, which has already been notified under Section 14 to be under the purview of Administrative Tribunal Act, this Court must hold the present writ application to be not maintainable.

That being so, this writ application is wholly misconceived and ill advised.

It is in fact fit to be dismissed on this ground alone because the petitioner before moving this Court had to initially exhaust the statutory alternative remedy before the Central Administrative Tribunal.

Learned counsel for the petitioner, however, has been very emphatic that since the petitioner was employed under the Central Government and that to by way of fresh appointment there could be no question of the petitioner being subjected to the remedy before the Tribunal. Learned counsel for petitioner seems to be wholly ignorant of the provisions of Section-14 of the Administrative Tribunal Act,



inasmuch as, every matter relating to service including appointment in the central Government service or any Board or Corporation, owned and controlled by the Central Government and notified under the Administrative Tribunal Act, has to be initially decided by the Central Administrative Tribunal.

The case of compassionate appointment therefore has to be also looked into by the Central Administrative Tribunal.

This Court, however, will not dismiss the writ application on the aforesaid ground also taking note of the pleadings on record. The father of the petitioner had died on 29.07.2008 and an application was filed by the petitioner for appointment on compassionate ground on 21.08.2008, such application as per the policy of the Central Government/Corporation was considered against available 5 per cent vacancies strictly in accordance with the criteria laid down by the Government of India in the Ministry of Water Resources memo dated 31.01.2011 contained in Annexure-E, which reads as follows:-

“ No. 20/55/2005. Admn.

Government of India
Ministry of Water Resources
Shram Shakti Bhavan, Rafi Marg
New Delhi, the 31st January, 2011

OFFICE MEMORANDUM

Subject: Compassionate Appointments-Internal instructions-regarding.

The undersigned is directed to refer to the Ministry's O.M. of even No. dated 19.9.2005 on the subject mentioned above wherein internal guidelines on a 100-point scale, based on various aspects indicated in the scheme for compassionate appointment was circulated, for a comparatively balanced and objective assessment of the applications for compassionate appointment. Due to the implementation of the Sixth Central Pay Commission recommendations, It was felt necessary to review some of the parameters in the internal guidelines relating to family pension, terminal benefits and monthly income. Based on the recommendations of the Screening Committee the merit points pertaining to family pension , terminal benefits and monthly income have been revised as mentioned in the following tabulations:

A	Family Pension (Basic excluding DA & Allowances``	Points
(i)	Below Rs. 3500	20
(ii)	3500-4000	18
(iii)	4001-5000	16
(iv)	5001-6000	14
(v)	6001-7000	12
(vi)	7001-8000	10
(vii)	8001-9000	8
(viii)	Above Rs. 9000	6

B.	Terminal Benefits	Points
(i)	Upto Rs. 2,00,000	10
(ii)	200001-300000	9
(iii)	300001-400000	8
(iv)	400001-500000	7
(v)	500001-600000	6
(vi)	600001-700000	5
(vii)	700001-800000	4
(viii)	800001-900000	3

(ix)	900001-10, 00000	2
(x)	10,00001-11,00000	1
(xi)	Above Rs. 11,00000	Nil

C.	Monthly Income	Points
(i)	No Income	5
(ii)	Rs. 5000 or less	4
(iii)	Rs. 5001 to 10000	3
(iv)	Rs. 10001 to 15000	2
(v)	Rs. 15001 to 20000	1
(vi)	Rs. 20001 and above	Nil

2. All organizations under the Ministry and the respective Screening Committees constituted for considering appointments on compassionate grounds are advised to take into consideration the above revised merit points for family pension, terminal benefits and monthly income, while processing the cases for compassionate appointment.

(N.K. Gupta)
Under Secretary to the Govt. of
India
TEL. NO. 2371 0333
E-Mail: usadmn@mowr.nic.in
31.01.2011.”

It is not in doubt that as per the aforementioned criteria, the case of the petitioner for the first time was considered on 09.12.2011, and the petitioner therefore was granted 20 points whereas respondent no. 5 had been found to be given 26 points, the appointment of respondent no. 5 therefore, was recommended and made against the available vacancies on compassionate ground. The case of the petitioner was again considered for compassionate



appointment on 09.07.2013, and this time while the petitioner only secured 20 points whereas respondent no. 4 secured 30 points. The details given by the respondents in the counter affidavit or both consideration enclosing sheet of all the candidates considered, will leave nothing for speculation that the consideration of the petitioner was not made in an objective manner and in fact the petitioner cannot be heard to say that when respondent nos. 4 and 5 had secured higher points than the petitioner, they should not have been appointed against available 5 per cent vacancies. To that extent, the complaint of the petitioner to the appointment of respondent no. 5 on the basis of vague pleadings in paragraph no. 16 of the writ application, reading as follows:-

“That the petitioner was assured for his appointment on the basis of compassionate ground since 2009 to 2013. The petitioner waited for his appointment letter but no appointment letter was issued in his name by the Administrative Officer, CGWB (Respondent no. 2) till date. The respondent authority nos. 1 and 2 appointed the private respondent nos. 4 and 5 whose wards died much after the father of the petitioner.”

must be only noted for its being rejected. There is no criteria that the date of death of the earning employee will be basis



for employment and therefore, assailing the appointment of respondent nos. 4 and 5 on the ground that their bread earner died later than the father of the petitioner will be of no avail. As a matter of fact, the case of the petitioner for third time on 09.01.2015, was also taken into consideration and the petitioner again secured 20 points, again the appointments were made of the persons having higher points, inasmuch as, 11 persons had secured more than 20 points and appointment was made only of three persons securing upto 23 points. In this way, this Court does not find any error in the process of consideration of the case of the petitioner and therefore, this writ application claiming appointment of petitioner on compassionate ground must fail. It is, accordingly, dismissed.

Nothing said in this order, however, will come in the way of the respondents in reconsidering the case of the petitioner as may be permissible in law.

(Mihir Kumar Jha, J)

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