

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: March 16, 2015*

+ **W.P.(C) 7501/2011**

KAUSHALYA DEVI Petitioner

Represented by: Mr.Mohit Ramdev, Advocate

versus

UNION OF INDIA Respondent

Represented by: Ms.Barkha Babbar, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

PRADEEP NANDRAJOG, J.

1. Constable Satyabir, late husband of the petitioner died in harness on April 17, 2003.
2. The petitioner was sanctioned a family pension which is currently around ₹13,000/- per month and was ₹10,807/- when the writ petition was filed.
3. On May 09, 2003 the petitioner submitted an application to the Director General, BSF requesting for a job on compassionate ground.
4. Though the petitioner was not entitled to retain the family accommodation allotted to her husband while in service, as a special humanitarian gesture, the petitioner was allotted Quarter No.5, Type I, which had been constructed from the fund provided by a BSF Relief Fund. The allotment was for 11 months. The petitioner was later on shifted to Quarter No.12.
5. Pending a consideration of the request made by the petitioner for being appointed on compassionate ground, she was appointed as a helper in

a nursery school of 25th Bn BSF for a period of one year and was paid a salary of ₹3500/- per month out of a private fund created by contributions made by the Officers of BSF and donations made thereto under the discretionary power of DG, BSF.

6. Petitioner was informed on December 31, 2004 that she did not meet the eligibility criteria of being 8th pass and thus could not be granted any appointment on compassionate ground.

7. It appears that the petitioner did not take the issue forward because she was given employment in the nursery school and was receiving salary from the private fund. In the year 2007 she was informed that her appointment cannot continue beyond 7 years in view of a policy decision that the benevolent employment for which salary is paid out of the private fund could not be for more than 7 years.

8. The reason is obvious. The purpose of this employment and disbursement of salary from private fund is to help the family of BSF employees who died while in harness to overcome the financial hardship faced.

9. The petitioner questions she being held to be ineligible for compassionate appointment by pleading that she has a school leaving certificate which shows that she failed in class 9 and therefrom the petitioner draws the inference of the certificate recognized that she has passed class 8.

10. With respect to the said certificate on which the petitioner places reliance, the record would evince that it was sent to the District Education Officer, District Rewari for verification on March 18, 2005 and in respect thereto the District Education Officer informed on April 21, 2005 that the certificate was fake on account of four reasons. The four reasons are:-

(i) The last serial number existing in the admission register is 2160 and

the serial number of the school transfer certificate records the admission number is 3762.

(ii) As per the record of the school, last certificate in the year 2004 was issued on September 09, 2004 and whereas one produced by the petitioner bears the date December 28, 2014.

(iii) As per the school certificate the records were checked by one Anita Kumari, who as of December 28, 2004 was serving in the Government Secondary School, Dohki, and not in the Government Senior Secondary School, Rewari.

(iv) The certificate does not bear the signature of the person who prepares the certificate. At that time one Shri Mohan Lal a teacher in Mathematics was the admission incharge for the Higher Secondary Division.

11. The contention of the learned counsel for the petitioner is that the respondent could not conduct an inquiry behind the back of the petitioner and could not rely on any information without confronting the petitioner therewith.

12. In our opinion this argument would hold no water in a case concerning consideration of a claim of a person for being appointed on compassionate grounds.

13. If for each and every decision, including where concessions are given by the Government, strict compliance with principles of natural justice would be insisted by the Courts it could create administrative chaos.

14. Nobody has a vested right to be appointed to a public post. At best the right is to be considered for appointment to a public appointment as per the rules and policies concerning appointments to the public post.

15. Appointment to a public post on compassionate ground is not treated as an alternative mode of recruitment. It has an element of compassion. The

reason for the compassion is that the family of a Government Servant who died in hardness may come in under a financial stress and to overcome the stress the appointment is given.

16. In the instant case we find that the financial stress under which the petitioner came was relieved when she was given appointment in the nursery school for a period of 7 years. We note that as of today the petitioner is receiving a family pension of a little over ₹ 13,000/- per month.

17. We also note that the petitioner is retaining the accommodation allotted to her in terms of interim order passed by this Court and has availed the benefit of retaining accommodation for four years.

18. While dismissing the writ petition, we grant the petitioner two months time to vacate the accommodation currently under her occupation.

19. No costs.

(PRADEEP NANDRAJOG)
JUDGE

(PRATIBHA RANI)
JUDGE

March 16, 2015

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