

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6071 of 2017

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Sheweta Kumari Sharma, D/o Late Dinesh Sharma, Village - Mangrawan, P.O. –
Balua, District Gaya

.... Petitioner/s

Versus

1. The Union of India, through the D.G. Cum Secretary, Department of Posts, Dak Bhawan, New Delhi
2. The Chief Postmaster General, Bihar Circle, Patna
3. The Director of Postal Services (HQ), O/o the Chief Postmaster General, Bihar Circle, Patna
4. The Asstt. Director (Recruitment), O/o the Chief Postmaster General, Bihar, Circle, Patna
5. The Sr. Superintendent of Post Offices, Gaya Division, Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Hemant Kumar Karn, Advocate
For the Respondent/s : Mr. Awadesh Kumar Pandey, SCGC
Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 16-05-2017

Heard learned counsel for the petitioner and counsel
for the respondent-Union of India.

2. The impugned order under challenge in the writ application is dated 03.11.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No. 264 of 2016. Since the Tribunal has dismissed the O.A. application refusing to give any direction upon the respondent-authorities to appoint the petitioner on the post of a Postal Assistant on compassionate ground despite her



having English as compulsory subject in the intermediate, the writ application has been filed.

3. The submission of the counsel for the petitioner is that in identical situation, the Tribunal had held that even Alternative English with 50% marks is good enough for consideration and the Tribunal in a batch of O.As., which was O.A. No. 870 of 2014, had allowed such prayer.

4. However, the Tribunal took note of such submission and explained it in its order and made distinction in following terms:

“6 It is well-settled in law that compassionate appointment is not a matter of right. The applicant’s case is distinguishable from the batch cases with the leading case O.A. 870/2014 decided vide order dated 06.05.2015 which related to direct recruitment through competitive examination. The applicants in those cases had already qualified in the competitive examination and in several cases also issued appointment letters. Thereafter, the department terminated those appointments on the ground that they had taken Alternative English of 50 marks rather than English of 100 marks. In that case since the notification for the examination had not



clearly specified that English had to be of 100 marks, therefore, the termination was held to be invalid.

7. The present case is clearly distinguishable from those cases. Further, by giving her consent she is barred by the principle of waiver to agitate this matter.”

5. The parity which this petitioner is looking for is clearly answered by the Tribunal in the above quoted paragraphs. The two appointments are distinguishable, therefore, the Tribunal committed no error by refusing to grant any kind of benefit to the petitioner in matter of compassionate appointment by helping her to occupy higher post than the post which was offered to her and which she had accepted voluntarily and joined and is working for almost two years. The submission of the counsel for the petitioner is that her acceptance is part of lack of bargaining position. In this regard, Annexure-P/5 has been placed before this Court.

6. This Court does not find that there was some kind of coercion as such based on which she accepted the post of a Postman in the background of her educational qualification and the performance she achieved in the matriculation and intermediate examination.

7. The Court, therefore, is not inclined to interfere



with the order of the Central Administrative Tribunal.

8. Writ is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

Arjun/-

AFR/NAFR	NAFR
CAV DATE	NA
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