

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 1406 of 2021

1. Radhika Devi, aged about 53 years, Female, widow of Late Jagnarayan Ray, Resident of Village- Kharauna, P.O. Karath, P.S. Tarari, District Bhojpur at Arrah.

2. Dhanjeet Kumar Ray, aged about 29 years, male, son of Late Jagnarayan Ray, Resident of Village- Kharauna, P.O. Karath, P.S. Tarari, District Bhojpur at Arrah.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. Director General, C.R.P.F., New Delhi.
3. I.G. of Police, C.R.P.F., Bihar Sector, Patna.
4. D.I.G. of Police, C.R.P.F., Group Sector, Patna.
5. I.G. of Police, C.R.P.F., Western Sector, Chandigarh.
6. D.I.G. of Police, C.R.P.F., Group Centre, Jalandhar.
7. Commandant-13 Battalion, C.R.P.F., New Police Line, Fatehgardh Sahib, Punjab.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Adv.

For the Respondent/s : Mr. Awadhesh Kumar Pandey, Adv.

ma, CGC



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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 05-08-2021

The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

2. Heard the learned counsel for the petitioners, Shri Ram Hriday Prasad and the learned counsel for the Union of India, Shri Awadhesh Kumar Pandey assisted by Shri R.K. Sharma, Central Government Counsel.

3. The present writ petition has been filed by the petitioner no.1, who is the widow of the deceased employee and the petitioner no.2, who is the son of the deceased employee, for a direction upon the respondent- authorities to provide compassionate appointment to the petitioner no.2 on the post of constable G.D. and quash the order dated 18th March, 2020 issued by the Commandant-30th Battalion, C.R.P.F., Fattehgarh Sahib as also the order issued by the D.I.G. of Police, Group Centre, CRPF Sarailhas, Indandhar dated 31.07.2020, whereby



and where-under the prayer of the petitioner no.2 for grant of compassionate appointment has been rejected.

4. At the outset, the learned counsel for the petitioners has submitted that the prayer of the petitioner no. 2 for grant of compassionate appointment in lieu of the death of his father in harness has been rejected, merely on the ground that the petitioner no.2 is overage and the relaxation of 15 years cannot be granted to him since he is married and such relaxation is only available to unmarried candidates.

5. The learned counsel for the petitioners has submitted that the aforesaid scheme of the respondents is discriminatory but since the rules have not been challenged in the present case, the petitioners seek to rely on the averments made by the respondents in their counter affidavit, more particularly paragraph no. 12 thereof, which is reproduced herein below:-

“12. That, the averment made in para no.3 of the writ petition it is stated that the petitioner has not provided other backward class certificate while he submitted his application for claiming age relaxation under O.B.C. during compassionate appointment for the post of CT/GD in CRPF. Therefore his case was co: eral Quota. It is also submitted



that after giving age relaxation under OBC quota as per provisions laid down under recruitment rules he would also be not eligible for compassionate appointment in the rank of CT/GD as his age was 27 years and 05 months. Whereas maximum age for recruitment of CT/GD in CRPF is 23 years and 03 years age relaxation under O.B.C. quota i.e. 26 years.”

6. Thus, the learned counsel for the petitioners has submitted that since the petitioner no.2 belongs to the OBC category, three years age relaxation ought to have been granted and then he would have come within the age limit fixed for appointment as a constable.

7. Per contra, the learned counsel for the respondent Union of India has submitted that firstly the petitioner no.2 has not furnished the OBC category certificate and has applied under the general category, hence no age relaxation, as provided for the OBC category, could have been granted and secondly the age limit for recruitment on the post of constable is 18 to 23 years and the petitioner no.2 was 27 years, five months and 13 days on the date of applying for compassionate appointment. It is thus submitted that even if three years age relaxation is granted, then :



e petitioner does not come within

the prescribed limit, hence the petitioner no. 2 was not eligible to be granted appointment on compassionate ground.

8. To the aforesaid submission of the learned counsel for the respondent Union of India, the learned counsel for the petitioner has referred to page no. 45 and 46 of the counter affidavit to show that in sub-categories like constable (Daftari) and constable (peon), the age limit has been prescribed as 25 years, hence the petitioner no.2 would have definitely qualified under the said category and he would have been granted appointment on compassionate ground. It is thus submitted that the petitioners be granted liberty to approach the respondent authorities to consider the aforesaid aspect of the matter.

9. The learned counsel appearing for the respondent Union of India, Shri Awadhesh Kumar Pandey, has got no objection in case the petitioner no. 2 approaches the appropriate authority, which in this case would be the Inspector General of Police, CRPF, Western Sector, Chandigarh.

10. Having regard to the facts and circumstances of the case and considering the submissions advanced by the learned counsel for the parties, I deem it fit and proper to grant liberty to



the petitioner no.2 to approach the respondent no. 5 i.e. the Inspector General of Police, CRPF, Western Sector, Chandigarh by filing appropriate representation for the purposes of grant of compassionate appointment, on the aforesaid grounds, which have been argued before this Court, whereupon the respondent no.5 shall consider the case of the petitioner no.2 sympathetically, especially since his father has died in harness and take a final decision within a period of six weeks from the date of filing of such representation by the petitioner no.2, in accordance with law.

11. The writ petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12-08-2021
Transmission Date	N/A

