

S/L 123
04.05.2023
Court. No. 12
Sourav

WPA 19826 of 2021

**Kalyani Paul & Ors.
Vs.
The District General, CISF & Ors.**

*Mr. Rejaul Alam
Mr. S. M. Hassan*

...for the petitioners.

*Mr. Ajoy Choubey
Ms. Sanchita Barman Roy*

...for the respondents.

1. Both the writ petitioners and the respondents are represented by their respective learned advocates.
2. The present writ petition is now taken up for hearing.
3. Heard learned advocate for the writ petitioners and learned advocate for the respondents in favour of and against the writ petition.
4. The instant writ petition is now taken up for passing appropriate order.
5. By filing the instant writ petition as filed under Article 226 of the Constitution of India, the writ petitioners have prayed for issuance of writ of mandamus upon the respondents directing them not to give effect upon their letters dated 15.02.2012 and 18.12.2020 with a further prayer for issuance writ of mandamus against the respondents to provide employment on compassionate ground in favour of the writ petitioner no. 2.
6. Mr. Alam, learned advocate for the writ petitioner at the very outset draws attention of this Court to the

Annexure P.1 of the instant writ petition wherefrom it reveals that the predecessor-in-interest of the present writ petitioner namely; Mihir Chandra Paul died on 04.07.2010. Attention of this Court is also drawn to Page No. 23 of the writ petition wherefrom it reveals further that the date of birth of the writ petitioner no. 2 is 04.07.2010. Drawing attention to Annexure P-6 and Annexure P-7, it has been contended on behalf of the writ petitioners that by issuing the said two letters, the respondent authorities rejected the application of the writ petitioner no. 2 on various grounds out of which one ground is non-approval of age relaxation of 4 years 11 months 19 days in respect of writ petitioner no. 2. It is contended on behalf of the writ petitioners that considering the age of the writ petitioner and also considering the fact that the prayer for compassionate appointment was submitted with the respondent authorities within time, the ground of refusal is unreasonable and it has got no logic at all. It is contended on behalf of the writ petitioners that the instant writ petition may be allowed by directing the respondents to issue compassionate appointment in favour of the writ petitioner no. 2.

7. *Per contra*, Mr. Choubey, learned advocate for the respondent authorities also places his reliance upon Annexure P-6 to the writ petition. Attention of this Court is also drawn to the Clause E (iii) i.e., Duties of Boards on the subject of instructions regarding

appointment on compassionate grounds which has been issued by Ministry of Home Affairs vide Notification/Memo No. E-32011(1)/1/05/RCCH/785 C.I.S.F. Circular No. 21/2005/R & S dated 14.06.2005 which has been marked as Annexure R-1 of the affidavit-in-opposition.

8. It is contended by Mr. Choubey that the Clause E (iii) i.e. Duties of Boards reads as under:-

“(iii) Relaxation in upper age limit may be recommended up to 02 years.”

9. It is further contended by Mr. Choubey, that when the present writ petitioners have made prayer for appointment of compassionate ground for the appointment of the writ petitioner no. 3, it is found that his age is above the permitted relaxation age of two years and he is having other requisite disqualifications for which the respondent authorities declined to grant compassionate appointment to respondent no. 3 which is evident from the copy of the letter dated 15.02.2012 being Annexure P-6 to the writ petition. It is further argued by Mr. Choubey, that when the writ petitioners have prayed for compassionate appointment of the present writ petitioner no. 3, it has been noticed by the respondent authorities that the writ petitioner no. 2 and writ petitioner no. 3 are twin brothers and thus on the self-same ground, the prayer for appointment of writ petitioner no. 3 has rightly been rejected by

the respondent authorities by issuing the impugned letter dated 07.03.2012.

10. It is further argued by Mr. Choubey that there was inordinate delay in making prayer for compassionate appointment for writ petitioner no. 3 for which the respondent authorities are also justified in issuing the letter impugned dated 07.03.2012.

11. Mr. Choubey, learned advocate for the respondent authorities in support of his contention places reliance upon the following three reported/unreported decisions:

(i) Umesh Kumar Nagpal Vs. State of Haryana & Ors., Anil Malik Vs. State of Haryana & Ors. reported in (1994) 4 SCC 138.

(ii) Eastern Coalfields Limited Vs. Anil Badyakar & Ors. reported in (2009) 13 SCC 112.

(iii) Judgment passed in WPA 22088 of 2022 (Tarun Dey Vs. The Union of India & Ors.) passed onn 14.11.2022 by a co-ordinate Bench of this Hon'ble Court.

12. On perusal of the entire materials as placed before this Court and after hearing the learned advocates for both the sides, it appears to this Court that there lies no dispute that the present writ petitioner no. 2 and present writ petitioner no. 3 are twin brothers and they are the sons of late Mihir Chandra Paul.

13. On perusal of the impugned letter dated 15.02.2012, it reveals to this Court that the respondent authorities rejected the prayer of the writ petitioner no. 2 for his compassionate appointment on many

grounds out of which one ground is that his case of compassionate appointment cannot be considered *on account of his over age* which is not permitted for relaxation in view of Clause E (iii) of the Memo dated 14.06.2005 where it has been specifically stated that in case of compassionate appointment relaxation in upper age limit may be recommended upto two years.

14. In considered view of this Court since present writ petitioner no. 3 and writ petitioner no. 2 are twin brothers, the respondent authorities are very much justified in rejecting the claim of the present writ petitioner no. 3 on the self-same ground i.e., *on the ground of over age* by which they have rejected the prayer of the writ petitioner no. 2 for his compassionate appointment.
15. In view of the discussion made hereinabove, this Court thus finds no merit in the instant writ petition and accordingly, the instant writ petition being **WPA 19826 of 2021** is dismissed.
16. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Partha Sarathi Sen, J.)