

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10020 of 2021

Amresh Kumar Sharma Son of Late Bachha Sharma resident of Village -
Mirzapur, P.O. - Rukunpur, P.S - Didarganj, District- Patna, PIN Code -
803201.

... .. Petitioner/s

Versus

1. Union of India, through Secretary, Ministry of Home Affairs, Government of India.
2. Welfare and Rehabilitation Board, Central Armed Police Force, Ministry of Home Affairs, Government of India, Room No. 204-205, F Wing, IInd Floor, Nirman Bhawan, New Delhi- 110011, through its Chairman.
3. The Director General, Central Industrial Security Force, C.G.O. Complex, New Delhi.
4. The Central Welfare Officer - cum - Inspector General (Administration), Central Industrial Security Force, C.G.O. Complex, New Delhi.
5. The Inspector General, CISF Eastern Sector Headquarters, Ranchi, Near Tiril Ashram, Dhurwa, Ranchi, Jharkhan, PIN - 834004.
6. The Assistant Inspector General, CISF Eastern Sector Headquarters, Ranchi, Near Tiril Ashram, Dhurwa, Ranchi, Jharkhand, PIN - 834004.
7. The Deputy Commandant, CISF Unit, NPGCL, Nabinagar, District- Aurangabad (Bihar).
8. Assistant Commandant / Member - II, Head Clerk / Constable (GD) Compassionate Appointment Recruitment Board, CISF Unit, BSL Bokaro.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ravi Bhushan Pd. Sinha, Advocate Mr.Prashant Bhushan, Advocate
For the Respondent/s	:	Mr.Dr. Krishnandan Singh (ASG)
For the UOI	:	Mr.Anshya Bahadur Mathur, CGC

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

10 25-06-2024 1. The petitioner is the son of one Bachha Sharma, since deceased, who was member of the Central Industrial Security Force (hereinafter referred to as the “C.I.S.F.” for short). The said Bachha Sharma, while posting at C.I.S.F. Unit, N.P.G.C.L., Nabinagar, in the district of Aurangabad, Bihar had



met with an unnatural death on 12th of January, 2017, being shot by one Balveer Singh, Ex-Constable (GD). As the said Bachha Sharam died in harness, the petitioner, being his son, applied for compassionate appointment. As per the scheme of compassionate appointment of the C.I.S.F., he could not be appointed as Head Constable as he failed in type test. Thereafter, physical ability test of the petitioner was taken for the post of Constable (GD) thrice. He was asked to run 5 kilometers within stipulated period of time, as mentioned in the amended scheme, but on all occasions, the petitioner could not succeed. As he failed in physical ability test, his prayer for compassionate appointment was rejected.

2. Hence, the instant writ petition.

3. I have heard the learned Advocate on behalf of the petitioner as well as the learned Counsel for the Union of India.

4. I have also perused the entire materials on record.

5. It is needless to say that compassionate appointment is an exception to the general rule that appointment to public servants should be made on merits through open invitation. Therefore, the Supreme Court time and again has laid down guidelines for grant of compassionate appointment.

6. In *Haryana State Electricity Board & Anr. v.*



Hakim Singh reported in ***(1997) 8 SCC 85***, the Apex Court explained the rationale of the Rule relating to compassionate appointment in the follow words:-

“The rule of appointments to public service is that they should be on merits and through open invitation. It is the normal route through which one can get into a public employment. However, as every rule can have exceptions, there are a few exceptions to the said rule also which have been evolved to meet certain contingencies. As per one such exception relief is provided to the bereaved family of a deceased employee by accommodating one of his dependants in a vacancy. The object is to give succour to the family which has been suddenly plunged into penury due to the untimely death of its sole breadwinner. This Court has observed time and again that the object of providing such ameliorating relief should not be taken as opening an alternative mode of recruitment to public employment.”

7. Due to the above reason, compassionate appointment is provided by a scheme formulated by every organization and departments of the Government. Though, the requirement of formulation of schemes emanates from certain administrative order or by direction of the legislature, the



schemes in different departments and organizations are different.

8. As a matter of fact, since banking service is not directly controlled by the order passed by the Government, the scheme of compassionate appointment has been formulated by the banks by way of a bipartite agreement between the banker and association of the employees.

9. The above discussion is made in order to come to a decision that various Government and Non-Government organizations or departments have the right to frame different schemes.

10. The instruction to formulate specific guideline and scheme for compassionate appointment was passed by the Ministry of Personnel Public Grievances & Pensions, Department of Personnel and Training on 16th of January, 2013. Being earned with such power, different organizations of Central Armed Forces like C.I.S.F., Sashastra Seema Bal (S.S.B.), Armed Forces etc., formulated their respective schemes for such compassionate appointment. It is found from the record that C.I.S.F. practically had existence of such scheme since 2005 and by formulating a new scheme, the old scheme, more or less, was adopted. It is specifically stated in the scheme



that for compassionate appointment to the post of Head Constable, typing test is necessary and for the post of Constable (GD) physical ability test is required to be given. If a person passes physical ability test, then he is entitled to be appointed in C.I.S.F. as Constable (GD) on compassionate ground.

11. It is already stated that the petitioner failed physical ability test not only once but thrice, when opportunities were given to him.

12. Learned Advocate on behalf of the petitioner submits that the scheme of compassionate appointment of C.I.S.F. is to be applied liberally like that of the scheme Sashastra Seema Bal (S.S.B.) because the said scheme was also formulated on the basis of DoPT OM dated 16th of January, 2013.

13. I am afraid. I am not in a position to accept such argument advanced by the learned Advocate on behalf of the petitioner, for the post of a Constable (GD) in C.I.S.F., the scheme of Sashastra Seema Bal (S.S.B.) cannot be applied.

14. Another limb of argument advanced by the learned Advocate for the petitioner is that C.I.S.F. Circular No. 21 of 2005/R&S, dated 14th of June, 2005 states in Clause 8 (III) :-



“All cases of such C.I.S.F. personnel who die in action or in some other extraordinary circumstances would be considered directly by the D.G., C.I.S.F., on merit of each case.”

15. It is submitted by him that petitioner's application for compassionate appointment was not considered directly by the D.G., C.I.S.F. on merit and if the application of the petitioner is considered by the D.G., C.I.S.F., on merit he would have relaxed the requirement of the scheme relating to successful completion of physical ability test by the petitioner.

16. On perusal of the record, it appears that petitioner's application was not rejected by the D.G., C.I.S.F.

17. For the reason stated above, petitioner's result in physical ability test be placed before the D.G., CISF and the DG C.I.S.F. shall consider on merit as to whether the petitioner is entitled to the compassionate appointment as Constable (GD) on merit without being influenced over any observation made by this Court while disposing of the instant writ petition.

18. The instant writ petition is, accordingly, disposed of on contest.

19. However, there shall be no order as to costs.

20. The D.G., C.I.S.F. is directed to take this final decision within 2 months from the date of communication of



this order.

(Bibek Chaudhuri, J)

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