

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17031 of 2024

Shivkant Kumar, Son of Late Anandi Ram, Resident of Village- Chainpur
Bangda, P.S.- Maniyari, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The Union of India through Ministry of Home Affairs, Govt. of India, New Delhi
2. The Director General, Central Reserve Police Force, Lodhi Road, New Delhi
3. The Deputy Inspector General of Police (Welfare), Central Reserve Police Force, Lodhi Road, New Delhi
4. The Inspector General, Central Reserve Police Force, Bihar Sector, Ashiyana Digha Road, Patna, Bihar
5. The Deputy Inspector General, Group Centre, Central Reserve Police Force, Muzaffarpur, Bihar
6. The Deputy Inspector General of Police (Administration), Central Reserve Police Force, Ashiyana Digha Road, Patna, Bihar
7. The Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Bhubaneswar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rahul Rathour, Advocate.
For the UOI	:	Mr. Amarendra Nath Verma, C.G.C.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 12-11-2024

Heard Mr. Rahul Rathour, learned counsel
appearing on behalf of the petitioner and Mr. Amarendra Nath
Verma, learned counsel for the Union of India.

2. The petitioner in paragraph no. 1 of the present
writ petition has sought, inter alia, following relief(s), which are
reproduced hereinafter:-

*“(i) For quashing the communication contained
in Letter No. M5-01/2024 dated 24.05.2024 issued under
the signature of respondent No. 3 whereby and
whereunder the candidature of the petitioner for grant of
compassionate appointment on the post of Constable/*



GD has been rejected in light of Para-E of Central Reserve Police Force and Assam Rifles Recruitment Medical Examination Manual (Amended till May, 2015).

(ii) To set aside the decision of the Review Medical Board (in short "RMB") dated 24.06.2024, by virtue of which the petitioner was declared medically unfit for appointment as Constable (GD) in the Central Reserve Police Force.

Or in alternative

(iii) For directing the respondents to consider the case of the petitioner for appointment on any other suitable post as may be deemed fit and proper in the present case in terms of Letter No. A6-1/2024 dated 12.08.2024.

(iv) For any other relief/ reliefs if petitioner found entitle in the facts and circumstances of the present case.

Preliminary Objection :

3. Learned counsel appearing on behalf of the Union of India, at the outset, raised preliminary objection that the present writ petition is not maintainable before this Court in view of the fact that the cause of action has taken place in the State of Odisha and the petitioner has also made his application for being considered his appointment on compassionate ground in the State of Odisha. As such the petitioner's appointment on compassionate ground can only be considered by the DIG, CRPF, Bhubaneswar in view of the communication dated 12.08.2024.

4. I will deal with the maintainability of the writ petition after discussing the facts of the case and the rival submissions made on behalf of the parties in latter part of this order.

Brief Facts:



5. The father of the petitioner died in harness on 30.05.2023 while he was posted as Constable/GD in Central Reserve Police Force (hereinafter referred to as “CRPF”). The petitioner has claimed that he is the youngest son of the deceased Anandi Ram and had applied before the authority for considering his appointment on compassionate ground in requisite form (Form No.IV) in terms of the relevant Rules for the year 2024. Thereafter, the petitioner was called for medical examination and after examining the petitioner by the Medical Board, it was found that the left testis of the petitioner was not visualized and also at the same time had mild hydrocele on the right. The petitioner was declared medically unfit due to absence of left testis in left scrotum. Such communication was made to the petitioner on 24.06.2024. The Director General of Police (Welfare), CRPF, New Delhi informed the petitioner vide communication dated 24.05.2024 that his application dated 19.07.2024 for being considered to be appointed on the post of Constable/GD on compassionate ground cannot be accepted in view of the prescribed guidelines issued by the Home Ministry, Government of India. The petitioner, thereafter, again filed his representation before the Director General, CRPF, New Delhi for considering his case for appointment on compassionate ground on some other posts taking into consideration the



constrained financial position of the family. The representation of the petitioner was considered and again for the reason which was already communicated to the petitioner as contained in Letter dated 24.05.2024, the request of the petitioner for being considered his appointment on compassionate ground has been rejected informing the mother of the petitioner Smt. Machhiya Devi vide letter dated 12.08.2024 that if her elder son is found medically fit, he can be considered for being appointed on compassionate ground considering the fact that Medical fitness criteria for all the post in CRPF is same, hence request of her son who was already declared medically unfit during assessment test, will not be considered for other post. The mother of the petitioner was also communicated the entire vacancy available against the different rank/posts. Thereafter, at the same time, the application of the petitioner was forwarded to the Inspector General of Police, Odisha Sector, CRPF on 16.08.2024 for appropriate action, which is still pending for consideration. Aggrieved by non-disposal of the request for appointment on any other post other than the Constable/GD in view of the vacancies notified, the petitioner claims that he has become entitled for consideration in light of the Standing Order No. 05 of 2001 of the CRPF, in which there is no prescription of physical standard for the post of Constable (Daftary/Peon/Safai



Karamchari (Min)/Farash) and for Constable (Library Attendant).

Submission on behalf of parties:

6. Learned counsel appearing on behalf of the petitioner contended that the petitioner applied before the authority for considering his appointment on compassionate ground after the father of the petitioner died in harness on 30.05.2023. The learned counsel further stated that thereafter the petitioner was called for medical examination and after examining the petitioner by the Medical Board, it was found that the left testis of the petitioner was not visualized and also at the same time had mild hydrocele on the right and the petitioner was declared medically unfit and his application was rejected. The petitioner, thereafter, again filed his representation before the Director General, CRPF, and the same was also rejected without proper consideration.

7. The Learned counsel appearing on behalf of the petitioner contended that non-consideration of the entitlement of the petitioner by the DGP/CRPF/Odisha Sector for considering his appointment on any rank / post in light of the communication contained in Letter dated 12.08.2024 by following the Standing Order No. 05 of 2001 considering the fact that the petitioner is unemployed and he is the younger son



of the deceased will amount to defeating the object of compassionate appointment.

8. *Per contra*, learned counsel appearing on behalf of the Union of India, on merits, submitted that the case of the petitioner cannot be considered in view of the fact that the petitioner has been found medically unfit during medical assessment test, as it would appear from the Review Medical Examination Report, communicated by the doctor of the Board of Comp. Apptt. 2024, CRPF, Muzaffarpur. From the communication contained in Letter dated 12.08.2024 made to the mother of the petitioner by the DIG, CRPF, Bhubneshwar, it has been made clear that since the petitioner has been declared medically unfit, if her elder son is found medically fit, his case can be considered for being appointed on compassionate ground on any of the post / rank as informed in the said letter. Learned counsel further submitted that the law in respect of compassionate appointment is no more *res integra* that as a result of death of the sole bread earner of the family and if the family is not in a position to meet the day to day expenses immediately, the case of any of the eligible member of the family is considered for compassionate appointment. Learned counsel further submitted that so far as the Standing Order No. 05 of 2001 is concerned, there is no prescription of physical



standard for the post of Constable (Daftry/Peon/Safai Karamchari (Min)/Farash) and for Constable (Library Attendant) for being considered to be appointed on compassionate ground in view of the social legislation. Once the petitioner has been found medically unfit, for helping the family of the deceased, a communication has been made to the mother of the petitioner that if her elder son is found fit, he can be considered for being appointed on compassionate ground on the post of Constable/GD in CRPF. Petitioner has also not made any statement as to whether his brother has given him 'No Objection' for considering his case in light of the Standing Order No. 05 of 2001. On these grounds, on merits also, learned counsel submitted that the case of the petitioner cannot be considered as, in fact, respondents are considering to take care of constrained financial condition of the family immediately by providing compassionate appointment to any of the suitable family members.

9. Heard the parties.

Analysis & Conclusion

10. The preliminary objection as to whether the present writ petition is maintainable or not from the facts of the case, I find that though the application of the petitioner for consideration for his compassionate appointment was submitted



outside the jurisdiction of this court, but the father of the petitioner died in harness in Muzzafarpur, which falls within the jurisdiction of this court and several communications including the communication dated 24.05.2024 (Annexure-3) and the communication dated 12.08.2024 (Annexure-5) are made at the residential address of the petitioner at Village- Chainpur Bangda, P.S.: Maniyari, District- Muzzafarpur, Bihar. In view of the facts mentioned above, I find it apt to refer the law laid down by the Apex court in the case of **Kusum Ingots and Alloys Ltd. Vs. Union of India and Anr.**, reported in (2004) 6 SCC 254, wherein it was held that the High Court would have jurisdiction if a part of the cause of action arises in its jurisdiction irrespective of location/residence of the authority.

11. A Division Bench of this Court while deciding the issue of territorial jurisdiction, in similar circumstances, in the case of **Rameshwar Prasad Vs. The Union of India & Ors.**, reported in 2003 (2) PLJR 151, where the order of dismissal was communicated or served at the residential address of the concerned employee, has held as under:

“7. The law is well settled that so far the order of dismissal is concerned that becomes effective only when it is communicated or made known to the person concerned. There is no averment in the written statement that the order of dismissal was communicated or served personally to the appellant at Sri-Nagar or it was made known to him at that place. The fact is that it was sent from that place through post to him and was served upon him at his village home. It does not mean that the order of dismissal was brought to his knowledge at his place of



posting at Sri-Nagar. As the order of dismissal was sent to the appellant-writ petitioner at his village home and received by him there, the order became known to him at his village home situate in the State of Bihar, and as such this Court has the territorial jurisdiction to hear and decide the matter. Accordingly the impugned order passed by the learned single Judge is set aside and the matter is remanded for fresh consideration in accordance with law."

12. The said proposition of law was further reiterated by the Apex Court in the case of **Nawal Kishore Sharma Vs. Union of India & Ors., reported in (2014) 9 SCC 329**, which is reproduce hereinafter:

"17. We have perused the facts pleaded in the writ petition and the documents relied upon by the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for sea service due to dilated cardiomyopathy (heart muscle disease). As a result, the Shipping Department of the Government of India issued an Order on 12-4-2011 cancelling the registration of the appellant as a seaman. A copy of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation. It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the district of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar. Admittedly, the appellant was suffering from serious heart muscle disease (dilated cardiomyopathy) and breathing problem which forced him to stay in his native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together, a part or fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disintitling him from disability compensation."

(emphasis supplied)



13. Having considered the rival submissions made on behalf of the parties, and in view of the law laid down by the Apex court, a fraction of cause of action arose within the territorial jurisdiction of this Court and therefore, the present writ petition is held maintainable.

14. In so far as the law related to compassionate appointment is concerned, the same is no more *res integra*. The Apex Court relying on the ratio of ***Umesh Kumar Nagpal v. State of Haryana and Others*** reported in ***(1994) 4 SCC 138***, further in Paragraph No. 7.2 in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors. Etc.*** passed in ***Civil Appeal nos. 8842-8855 of 2022***, has laid down following principles of compassionate appointment, which are reproduced hereinafter:

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

- i. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated objectives, i.e., to enable the family of the deceased to get over the sudden financial crisis.*
- ii. Appointment on compassionate grounds is not a source of recruitment. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis.*
- iii. Compassionate appointment is not a vested right which can be exercised at any time in future.*



Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source."

15. In the case of **Jagdish Prasad v. State of Bihar** reported in **(1996) 1 SCC 301**, Hon'ble Apex Court, while considering the object of compassionate appointment held that the object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family.

16. In case of **State of U.P. v. Paras Nath**, reported in **(1998) 2 SCC 412**, the Hon'ble Apex Court held that the purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. It was further observed that none of these consideration can operate while the application is made after a long period of time.

17. In the peculiar facts of the present case, it appears



that the application of the petitioner was considered. He was called for medical fitness examination and he was declared medically unfit by the Medical Board, as it would appear from the Review Medical Examination Report dated 24.06.2024. Thereafter, a communication was made to the mother of the petitioner for making application on behalf of her elder son. In the present case, I find that the petitioner has not given any information, as to whether he has any elder brother or in case he has elder brother, whether he has given 'No Objection' in favour of the petitioner for his being appointed on the compassionate ground. Standing Order No.05 of 2001 makes it clear that there is no prescription of physical standard for the post of Constable (Daftry/Peon/Safai Karamchari (Min)/Farash) and for Constable (Library Attendant), which disentitles the petitioner for being considered to be appointed on compassionate ground. A communication dated 12.08.2024 was made to the mother of the petitioner to the extent that the elder brother of the petitioner can be considered for compassionate appointment, if he is found medically fit in view of the several vacancies available against different posts / rank, as has been informed in the said letter.

18. I find that in view of the Standing Order No. 05 of 2001 and also the order dated 06.05.2024 passed in L.P.A. No. 1356 of 2019, wherein this Court taking into consideration



the physical standard prescribed for open competitive recruitment on various posts, as well as, the Standing Order No. 05 of 2001 relating to the compassionate appointment has made a clear distinction and in paragraph no.6, wherein, it has considered that in light of the principle laid down by the Apex Court, the appellant's grievance being against the CRPF organisation in seeking compassionate appointment, the CRPF has to follow the Standing Order No. 05 of 2001

19. So far as any dispute relating to the entitlement of the petitioner or any of his family members is considered, the same being private in nature, this Court will not enter into it as to whether any of the brother of the petitioner has given 'No Objection' and it is the desire of the mother of the petitioner that he should be appointed on compassionate ground and the petitioner can well be advised to first make it clear before the authority concerned, as to which member of the family is required to be considered for being appointed on compassionate ground in view of the aforementioned settled principle of law, can only be said to be misconceived and inappropriate.

20. The competent authority is directed to consider the case of the petitioner in the light of the law laid down by the Apex Court referred hereinabove and the Standing Order No. 05 of 2001 of the C.R.P.F.



21. The writ petition stands disposed of.
22. There shall be no order as to costs.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	AFR
CAV DATE	N.A
Uploading Date	20.11.2024
Transmission Date	N.A.

