



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2243 OF 2024

Vishakha Snehal Chabukswar
Age 30 Years, Occ. Nil,
R/o N-52/B-A/2-14-6, Uttam Nagar,
Opp. Manoj Kirana, CIDCO, Nashik.

...
PETITIONER

VERSUS

1. The Union of India
Through its Secretary,
Rail Bhawan, Rafi Marg,
New Delhi-110001.
2. The Divisional Railway Manager (P)
Central Railway Ground,
Besides, Railway Officers Colony,
Anil Nagar, Bhusawal, Maharashtra 425203
3. The Assistant Personnel Officer (M),
Central Railway Ground,
Besides Railway Officers Colony,
Anil Nagar, Bhusawal, Maharashtra.

... RESPONDENTS

Mr. N. L. Chaudhari, Advocate for the Petitioner
Mr. S. S. Deve, Standing Counsel for Respondent Nos. 1 to 3

**CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.**

DATE : 3rd MAY, 2024

ORDER (PER - R. M. JOSHI, J.) :-

1. The Petitioner seeks direction to Respondent Nos. 2 and 3 to issue order of appointment on compassionate basis in Group-C category pursuant to the approval of compassionate appointment dated 18th July,

2023.

2. The Petitioner is legally wedded wife of Snehal Chabukswar who died in railway accident on 17th March, 2021. He was on duty and working at Bhaler Shivar at Pol No. 165, 21/23. While crossing railway track he died due to dash of railway. Vide crime No. 11 of 2021 sudden death was registered. The Petitioner being widow filed Application before Respondent Nos. 2 and 3 for appointment on compassionate ground. These Respondents have considered the claim of the Petitioner for the appointment on compassionate basis and issued selection order dated 18th July, 2023. It is grievance of the Petitioner that in spite of the said order no appointment order is issued to her on the ground of pendency of a criminal complaint. According to the Petitioner the brother of the deceased had filed Application before the JMFC, Nandurbar under Section 156(3) of the Code of Criminal Procedure (for short 'Cr.P.C.'). A prayer was made for registration of crime against Petitioner, which was refused and the Application is treated as private complaint and verification is sought to be recorded. It is the contention of the Petitioner that there is no reason or justification for the Respondent Authorities to refuse to issue order of appointment of the Petitioner.

3. Respondent Nos. 1 to 3 opposed the Petition by filing affidavit-in-reply of Mr. N. S. Kazi, Senior Divisional Personnel Officer,

Divisional Personnel Office. It is not in dispute that the Petitioner is legally wedded wife of deceased Snehal Chabukswar who was working as a 'Track Maintainer' under Senior Section Engineer (Path Way) Nandurbar of Mumbai Central Division of Western Railway. It is not denied that Snehal Chabukswar died on 17th March, 2021 and the Petitioner being his widow applied for compassionate appointment on 3rd April, 2021. After completion of the procedure she was found to be suitable for appointment in Group 'C' category. It is claimed that Monish, brother of deceased had also requested for compassionate appointment for himself, which request was rejected. It is averred that when the Petitioner was called for appointment and asked to submit required documents, she had submitted police verification report wherein it is mentioned about pending case before Chief Judicial Magistrate, First Class, Nandurbar being No. 617/2021 for the offence punishable under Section 306 read with 34 of the Indian Penal Code (for short 'IPC'). Since court case was pending against the Petitioner, she was not appointed to the post.

4. We have heard the learned Advocates for both sides and perused the pleadings and documentary evidence on record.

5. There is no dispute about the fact that the Petitioner is widow of deceased Snehal Chabukswar who was employed with Respondents and had died on 17th March, 2021 during the course of the employment.

The Petitioner as well as brother of the deceased had sought compassionate appointment but claim of the brother of deceased was rejected by the Authorities and Petitioner is considered for the compassionate appointment. Perusal of the record indicates that an Application was filed before JMFC, Nandurbar under Section 156(3) of Cr.P.C. The said Court, however, refused to issue direction for registration of crime against the Petitioner. However, by order dated 21st February, 2024 process came to be issued against her for the offence punishable under Section 306 of IPC.

6. The Applicant before the learned JMFC is person interested for seeking employment on compassionate ground on account of death of his brother. The learned JMFC did not find it a fit case for directing registration of crime against the Petitioner. The report dated 25th November, 2021 submitted by Nandurbar Taluka Police Station indicates that no offence has been registered against the Petitioner though such complaints were filed by Monish Suresh Chabukswar to the said police station. We find that Monish is interested in getting compassionate employment and therefore possibility of he making complaints against Petitioner is not ruled out.

7. In the above facts and circumstances, we do not find any reason or justification for Respondents not to issue order of appointment

to the Petitioner. We, therefore, direct Respondent Nos.2 and 3 to issue appointment order in favour of the Petitioner in view of the compassionate approval order dated 18th July, 2023 unless there is any other legal impediment. It is made clear that the pendency of the private complaint filed by Monish before JMFC would not become a ground for not issuing order of appointment to the Petitioner. We, however, clarify that if the Petitioner is convicted in the said private complaint, it would be open for the Respondents to take appropriate decision in accordance with law.

8. In view of the above directions, **this Writ Petition is disposed off.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp