



\$~3

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3231/2023 and CM APPL. 12539/2023**

MEENU TYAGI

.....Petitioner

Through: Dr. A.P. Singh, Ms. Richa Singh,
Mr. Suraj Singh, Ms. Pratima Rani and Mr. Nihal
Shekhawat, Advocates.

versus

COMMISSIONER,

GOODS AND SERVICE TAX AND ANR.

.....Respondents

Through: Mr. N.K. Aggarwal, SPC and Ms.
Sanjana Antil, Advocate with Mr. Shivam Sharma,
Inspector and Mr. Raman Kant, Superintendent.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

02.08.2024

%

1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

“a) Issue writ order or direction in the nature of certiorari for appointment / reinstate in service to the petitioner on compensate ground in place of her deceased husband Head Constable Late Sh. Anil Kumar Tyagi.

b) Pass any such other and further order / orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present civil Writ petition, may also be passed in favor of the petitioner, in the interest of justice.”

2. As per the chronology of dates and events given in the writ petition, Petitioner's husband late Shri Anil Kumar Tyagi was employed as Head Constable in the Commissionerate, CGST, Delhi Zone at Faridabad.



Unfortunately, he expired on 13.11.2016 due to Jaundice, while on duty. He was the only earning member of the family and is survived by his widow, the Petitioner and two school going children, one of whom is specially abled. Petitioner made an application on 05.06.2018 for compassionate appointment and basis a letter dated 27.09.2018 by the Assistant Commissioner, GST for verification of the financial status of the family, verification was carried out on 18.09.2021 but there was no response on the application. Constrained by the financial crisis, Petitioner approached this Court seeking compassionate appointment.

3. Short affidavit on behalf of the Respondents has been handed over in Court, with copy to the learned counsel for the Petitioner and is taken on record.

4. As per the affidavit, Consolidated Instructions for compassionate appointment, governing the case of the Petitioner are contained in Office Memorandum dated 16.01.2013, issued by DoPT. Compassionate appointment can be made upto a maximum of 5% of vacancies falling under direct recruitment quota in any Group 'C' post and the objective is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, leaving his family in penury and without any means of livelihood, so as to relieve the family of the Government servant from financial destitution.

5. It is stated that Petitioner had submitted an application dated 05.06.2018 which was duly processed and placed before the Screening Committee in the year 2019 but since the Petitioner was only 8th class pass and did not have the minimum essential qualification for the post of Havaladar, which was 10th class pass, her case could not be considered. In the



Screening Committee meeting held on 14.02.2019 total 26 cases were considered out of which 12 were for the post of Havaldar. There was no vacancy in the post of Havaldar and therefore the applications were deferred for the next meeting. On 15.05.2019, 'Scheme for compassionate appointment-Relative merit point & revised procedure for selection' was notified in which point system was introduced providing for Merit Points Assessment on a 100 - point scale for compassionate appointment.

6. It is stated that subsequently Screening Committee meetings were held from time to time on 26.09.2019, 01.02.2021, 19.12.2021 and 26.04.2022. Since the compassionate appointments can be made only upto 5% of the direct recruit vacancies, when the vacancy position was ascertain for the year 2020 it was found that no vacancy was arising in the post of Havaldar. By a letter dated 08.07.2020, Petitioner intimated Respondent No.2 that she had passed the High School examination and sought compassionate appointment. However, since the vacancy position reported for the years 2021 and 2022 in respect of compassionate appointment was 'NIL', the Competent Authority decided that the cases will be considered as and when the vacancies arose. Even in the year 2024 no vacancy occurred in the post of Havaldar and the Committee in the meeting held on 27.03.2024 decided to consider the applications once the vacancies arise. It is further stated that since Petitioner is 10th class pass, she is only eligible for the post of Havaldar and cannot be considered for any other post in the Commissionerate.

7. Learned counsel for the Respondents submits that Petitioner is at Serial No. 10 in the list of applicants for compassionate appointment and depending on the arising of the vacancies, her case shall be considered by



the Screening Committee as there is no time limit for consideration. He further submits that as per OM dated 15.05.2019 system of weightages has been introduced based on the merit point assessment on a scale of 100 and there is possibility that Petitioner's case may be considered out of turn due to her scores. On instructions, learned counsel also states that to overcome the immediate penury status of the family of the deceased employee, terminal benefits such as GPF, Custom Welfare Fund etc. have been released to the Petitioner apart from sanction of family pension of Rs.15,676/- per month.

8. Learned counsel for the Petitioner submits that he is satisfied with the response in the affidavit and the writ petition can be disposed of directing the Respondents to consider the Petitioner as and when the vacancies arise in the post of Havaldar, in consonance with the stand taken in the affidavit filed before this Court.

9. Accordingly, this writ petition is disposed of with a direction to the Respondents to consider the case of the Petitioner in accordance with the Consolidated Instructions issued vide DoPT OM dated 16.01.2013, as and when the Screening Committee is convened on arising of vacancies in the post of Havaldar, based on her position at Serial No. 10 and/or her merit position premised on the weightage system. Petitioner will be at liberty to take recourse to legal remedies in case of any surviving or further grievance.

10. Pending application stands disposed of.

JYOTI SINGH, J

AUGUST 2, 2024

B.S. Rohella/DU