

Form No. J.(2)
Item No. 25
AB

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Aniruddha Roy

W.P.A. 15935 of 2024

Subhas Hansda
Vs.
Union of India & Ors.

For the petitioner	:	Mr. Shayak Mitra, Advocate Sk. Mujibar Rahman, Advocate
For Union of India	:	Mr. Sahasrangshu Bhattacharjee, Advocate Mr. Lokenath Chatterjee, Advocate
Heard on	:	August 25, 2025
Judgment on :	:	August 25, 2025

Aniruddha Roy, J.

On the prayer of Mr. Sahasrangshu Bhattacharjee, learned counsel appearing for the respondents/Union of India, time to file report on affidavit stands extended till today. The report filed in Court today is taken on record. Copy has been served.

Identically, on the prayer of Mr. Shayak Mitra, learned counsel appearing for the petitioner, the exception to the report in the form of affidavit filed in Court today is also taken on record. Copy has been served.

Facts:

1. This is the second round of writ litigation.

2. The father of the writ petitioner who was employed in **Central Reserve Police Force** (for short, **CRPF**) had died in 2000 during his employment tenure. The writ petitioner being the son applied for appointment on compassionate ground. The petitioner while was examined before the medical board was declared to be **unfit** on **August 28, 2022** on the ground, *inter alia*, **underweight** and **absent left testicle**, **annexure D** at **page 43** to the report on affidavit filed on behalf of the respondent no. 3. The petitioner under the terms of selection process had applied for review medical examination. On **February 20, 2023**, **annexure E** at **page 44** to the report on affidavit, the review medical board also declared the petitioner to be **unfit** on medical examination and the ground shown to be that **due to absent left testis**.
3. The petitioner had filed the first writ petition **W.P.A. 17647 of 2023**. A co-ordinate bench vide order dated **October 16, 2023**, **annexure F** at **page 46** to the report, has dismissed the writ petition. No appeal was carried out and the said order of the co-ordinate bench dated October 16, 2023 has achieved its finality. After dismissal of the said first writ petition, the instant second writ petition has been filed.
4. At this juncture, the petitioner applied for being appointed against the Non-Combatised civilian post and filed the instant second writ petition with the following prayers:

*“(a) Issue a writ of or in the nature of
Mandamus commanding to
respondents specially respondent no. 1*

to give any appointment on compassionate grounds in any non-combated Civilian Post in Ministry of Home, whose father dies in harness;

(b) Issue a writ of or In the matter of Mandamus commanding respondent to give the appointment on compassionate grounds in any organisation under Home Department in Civilian Post where Medical tests is not compulsory if the petitioner is otherwise fit in place of and/or in lieu of his late father Sukal Hansda forthwith;

(c) Issue a writ of or in the nature of Certiorari to produce all the records by the respondents before this Hon'ble Court so that a conscionable justice can be afforded to the petitioner;

(d) Rule NISI in terms of the prayers above;

(e) Ad-interim orders in terms of the prayer;

(f) Any other interim order(s) so as this Hon'ble Court may deem fit and proper;

(g) Costs of or/and incidental thereto to this application;

(h) Such further order and/or orders as this your Hon'ble Court may deem fit and proper."

5. A co-ordinate bench has passed its order on July 18, 2024 and directed as follows:

“In the aforesaid facts and circumstances, let the respondent no. 3 or any other responsible officer authorized by the respondent no. 3 file a report in the form of an affidavit disclosing the scheme, if any, for compassionate appointment that prevailed in the year 2000 when the petitioner’s father died, the present scheme for compassionate appointment, if any, as also a declaration to the effect that there is no non-combatised civilian post in CRPF. Let such report be filed by 9th August, 2024.”

6. Pursuant to and in terms of the said direction, report has been filed to which the petitioner has also filed its exception.

Submissions:

7. Mr. Sayak Mitra, learned counsel appearing for the petitioner submits that, the instant writ petition has been filed praying for an appointment on compassionate ground in any Non-Combatised civilian post in the ministry of Home Affairs. He prays for further direction upon the respondent no. 1 to file a report to disclose whether any such post is available for compassionate appointment in any other department under the ministry of Home Affairs.

8. In support of the claim of the petitioner, Mr. Mitra, learned counsel appearing for the petitioner has relied upon a decision of co-ordinate bench dated **February 22, 2023 In the matter of: Dolon Chanpa Dutta Vs. The Union of India & Ors.** rendered in **WPA 3958 of 2018**. In the light of the above decision of the co-ordinate bench, learned counsel for the petitioner submits that, the claim of the petitioner can be considered in the light of the prayers made in the instant writ petition.
9. Mr. Sahasrangshu Bhattacharjee, learned counsel appearing for respondents has placed reliance upon the said two medical reports, as already referred to at **pages 43 and 44** from the report on affidavit and submits that, the petitioner specifically had applied for compassionate appointment in CRPF in terms of the prevailing scheme therein where the candidature of the petitioner was rejected on medical ground and the reasons shown for rejection both by the first medical board and review medical board were same. The medical findings and the rejection of the candidature of the petitioner was challenged by the petitioner in the first writ petition, where the writ petition was dismissed. Therefore, there is no scope for the petitioner to claim any compassionate appointment in CRPF.
10. The petitioner then filed the instant writ petition. Pursuant to the direction of the co-ordinate bench dated July 18, 2024 a report has been filed on behalf of respondent no. 3, where in the concerned respondent has taken the specific stand, as follows:

“ 6. It is declared that there are no ‘Non-Combatised’ civilian posts available within the Central Reserve Police Force. It is stated that the entire force is structured to function cohesively in various operational environments.”

11. In view of the above, Mr. Bhattacharjee, learned counsel appearing for the respondents submits that, the scope of the policy for compassionate appointment cannot be enlarged by the Court and this writ petition should be dismissed.

Decision:

12. After hearing the rival contentions of the parties and on perusal of the materials on record, it appears to this Court that, the admitted fact is the father of the petitioner was an employee of CRPF who died during his employment tenure and only thereafter the petitioner being the son applied for compassionate appointment as a CRPF cadre. The compassionate appointment is always governed by the policy of the employer/State. Such policy shall be construed strictly.
13. The fate of the claim of the petitioner for compassionate appointment in CRPF stood finally adjudicated when the petitioner was found to be medically unfit and the challenge of the petitioner in this regard in the first writ petition having been rejected with the dismissal of the writ petition. The order of the co-ordinate bench dismissing the first writ petition has attained its finality. Therefore, the application for

compassionate appointment of the petitioner in CRPF stands *fate accompli* and the same cannot be revisited.

14. Now comes the instant writ petition.

15. The instant writ petition on the face of it cannot be maintained principally on the ground that the petitioner had applied for compassionate appointment in CRPF under a specific State policy. After being rejected he could not have applied for the same appointment in any other department of the Ministry of Home Affairs.

16. The law is well settled that compassionate appointment cannot be claimed as of right. Unless there is a specific policy of the State for compassionate appointment, such appointment cannot be granted. It is also well settled that appointment on compassionate ground, would not amount to generation of employment or distribution of employment. The policy for compassionate appointment has to be construed strictly in its letter and spirit in accordance with law.

17. In as much as, the report shows that, there is no Non-Combatised civilian post available in CRPF. If the petitioner is to be accommodated in any other department where there is no such policy for compassionate appointment exists, such an appointment cannot be provided to petitioner in absence of any policy. Even if the petitioner is accommodated in any other department where the policy for compassionate appointment exists then also petitioner being the son of CRPF employee cannot avail of any such compassionate appointment in any other department in the eye of law. In such circumstance, it would

be a clear encroachment of a seat under the nomenclature of compassionate appointment of that particular department for which petitioner cannot be eligible to be considered at all and the same would be in clear violation of Article 14 of the Constitution of India.

18. The decision of the co-ordinate bench ***In the matter of: Dolon Chanpa Dutta (supra)*** is clearly distinguishable on facts. In the instant case, the candidature of the petitioner was rejected on medical ground during consideration of his claim for compassionate appointment in CRPF. ***In the matter of: Dolon Chanpa Dutta (Supra)*** though the Deputy Inspector General (Welfare), CRPF forwarded the prayer of the writ petitioner therein to the Deputy Inspector General, Group Centre, CRPF, Durgapur but the same was not considered as on the date when Dolon Chanpa Dutta filed the writ petition and in that backdrop the order was passed. It is not such a case, in the facts situation of the instant writ petition, as already discussed above.
19. In view of the foregoing discussions and reasons, this Court finds this writ petition to be devoid of any merit.
20. Accordingly, this writ petition **W.P.A. 15935 of 2024** stands **dismissed**, without any order as to costs.
21. All parties shall act on the basis of the server copy of this order without insisting upon production of a certified copy thereof.

(Aniruddha Roy, J.)