

Order dated 17.8.2001

Heard Shri P.V.Ramdas, learned counsel for the petitioner and Shri A.K.Bose, learned Sr.St.Counsel for the respondents and perused the records.

In this O.A. the petitioner has come up with a prayer for direction to respondents to provide compassionate appointment to her and also for a direction to Res. 2 and 3 for producing the waiting list. Respondents have filed their counter. No rejoinder has been filed.

For the purpose of considering this petition it is not necessary to go into too many facts of this case. Admittedly the father of the applicant was working as Officiating Assistant in the Medal Department under the administrative control of the General Manager, India Government Mint, Alipore, Calcutta. While on duty he passed away on 18.2.1987. The applicant filed representation for providing compassionate to her. In response to one of such representations dated 13.10.1989, the respondents vide Annexure-2 dated 25.10.1989 replied that there is no provision to absorb female candidate in the Industrial Organisation. However, her name has been included in the name of female candidates awaiting compassionate appointment and she would be informed as and when a suitable vacancy arises in the Accounts Office, in accordance with the said list. Respondents have also stated in Para-3 of their counter that the applicant would be informed as and when a suitable vacancy arises in the Accounts Office. Applicant in Para-7 of the O.A. has mentioned that several other female candidates viz., M/s.Ranu Charan Bakshi, Anita Dutta, Dhulha Rani Tudu & Kalpana Bose have been provided with compassionate appointments. The applicant has mentioned in this para that according to her information names of these female candidates were below her name in the waiting list. In response to this respondents in Para-7 of their counter have mentioned that compassionate appointments in respect of those four candidates were cleared after ascertaining the financial condition of the families of the deceased employees either by a Committee constituted and nominated by the Head of the Department or by collecting

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informations through the local police authorities. From this above averment it is clear that respondents have not denied the averment of the applicant that names of those four female candidates were below her name in the waiting list. If further appears that these four candidates have been given appointment by the respondents. From this it is clear that the applicant has been subjected to discriminatory treatment while considering her case for compassionate appointment. Even though Hon'ble Supreme Court in the case of Umesh Chandra Nagpal have laid down that compassionate appointment is not a vested right, but that would not enable the respondents to adopt a discriminatory approach while considering the case of appointment on compassionate grounds. In the case of Smt. Kamala Gaiind vs. State of Punjab & Others reported in SLR 1992 (5) Page 864, while considering the case of compassionate appointment of the son of the applicant, the Hon'ble Supreme Court ~~have~~ observed as follows :

" Even if it is compassion, unless there be some basis there is no justification for discriminatingly extending the treatment. We, therefore, direct that within three months from now a suitable Class I post in P.C.S. Executive shall be provided to the applicant's son in lieu of the offer already made".

In view of the above observations of the Hon'ble Supreme Court, Respondent Nos. 2 and 3 are directed to consider the case of the petitioner for compassionate appointment on the same terms and conditions under which M/s. Ranu Charan Balshi Anita Dutta, Dhulha Rani Tudu and Kalpana Bose have been provided with compassionate appointments. This exercise should be completed within a period of 90 (ninty) days from the date of receipt of this order.

With the above observation and direction O.A. is allowed, but without any order as to costs.

MEMBER (JUDICIAL)

Pam Nathi Sen
VICE-CHAIRMAN
17.8.2001

Free copies of
final order
dt. 17.8.2001 issued
to counsel for
both sides.

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28/8/01

Priscilla
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