

In the Central Administrative Tribunal,

Patna Bench : Patna

Date of Order:- 18.11.98

Registration No. OA-465 of 1996

Most. Rita Devi widow of Late Prahlad Prasad Keshri,  
Ex-Lower Division Clerk at Directorate of Census  
Operations, Bihar, Patna, resident of Mohalla Dadar Mandi,  
Police Station Alamganj, Post Office Gulzarbagh,  
District Patna

... Applicant

Versus

1. The Union of India through the Secretary,  
Ministry of Personnel, Public Grievance and Pension,  
Department of Personnel & Training, New Delhi.
2. The Secretary, Ministry of Home Affairs,  
Cabinet Secretariat, New Delhi.
3. The Registrar General, India Kotah House,  
Annexe-2/A, Mansingh Road, New Delhi-110011.
4. The Joint Director, Census Operations, Bihar,  
Boring Canal Road, Patna.
5. The Deputy Director, Census Operations,  
Bihar, Patna.

... Respondents

Counsel for the applicant .. Mr. Pradeep Kumar

Counsel for the Respondents Mr.S.C. Dubey

Coram:- Hon'ble Shri Lakshman Jha, Member (Judicial)

O R D E R

Hon'ble Shri Lakshman Jha, Member (Judicial):-

1. This is an application under section 19  
of the Administrative Tribunals Act, 1985, (for short,  
"the Act") for compassionate appointment.
2. The applicant, Mosmat Rita Devi, is the widow  
of late Prahlad Prasad Keshri, who was employed as a

Lower Division Clerk in the Directorate of the Census Operation, Bihar, Patna (Respondent No.4). He had been appointed on 15.6.81, on substantive basis against sanctioned regular post by the Director, Census Operations Bihar, Patna, after a test through Selection Committee. He (Late husband of the applicant) along with 5 others) was served with termination notice in the year 1987, under ~~Rule~~ Rule 5(I) of the Central Civil (Temporary Services) Rules, 1965, which gave rise to OA-54/87. Subsequently, the Respondents withdrew the termination notice and, accordingly, the aforesaid OA was disposed of as withdrawn subject to the claim of regularisation of their services, vide order dated 30.3.87, as at Annexure-A/3. Thereafter, the Respondents in the process of regularisation of their services, which required of them to clear a special qualification Examination, as they had not been recruited through the Staff Selection Commission. They (applicants of OA-54/87) opposed the move of the Respondents by filing OA-500/93, and some of similarly aggrieved employees also filed OA-512/93, before this Tribunal. Both the O.As. were disposed of by a common order on 4.4.95, vide Annexure-4/2 which directed the Respondents to regularise their services on fulfilling conditions of passing Typewriting test either in Hindi or English with effect from the date, as advised by the Additional Government Counsel, as per the order dated 5.7.93, passed by Jaipur Bench of the Central Administrative Tribunal in T.A. No. 2424 of 1986 (Gulam Nabi Versus the Union of India and Others) as at Annexure-4. Unfortunately, for the applicant, before the aforesaid order dated 4.4.95, in OA-512/93, was passed,

her husband expired on 5.9.94, leaving behind the applicant widow, 3 minor unmarried daughters and one minor son. She filed representation on 7.4.95, as at Annexure-A-5, to the Respondent No.4 for grant of consequential benefits to her in the light of the order in OA-512/93, but without any avail. She learnt on 5.9.95, that the other applicants of OA-500/93 and OA-512/93, except her late husband, had been granted regularisation of their services with effect from 20.7.95, by Respondents in pursuance to the order as at Annexure-A-4/2, and also, the order of Respondent No.2, vide his letter No.27/99/94 A.D. 13795. The applicant then again filed a representation to the Respondent No.4, praying to regularise the services of her deceased husband with effect from the date of joining his services, as at Annexure-A/6, and also, to Respondent No.3, on 3.11.95, as at Annexure-A/7, but without success. It is stated that the Respondent No.4 had issued a letter informing the late husband of the applicant and other applicants of the aforesaid O.A. to take special examination on 28.7.85 as required by Staff Selection Commission in order to regularise their services. But, this letter was cancelled by the Director, Census Operation, Bihar, Patna, vide Annexure-A-6 to OA-500/93, and they continued to enjoy promotion, increment and crossing of E.B. etc.

3. The further case of the applicant is that she passed Matriculation Examination on 7.12.95 in First Division and filed an application to the Respondent No.4 for compassionate appointment on the vacant post of Assistant Compiler at the Directorate as at Annexure-A/8. But, she came to know from the office of the Respondent No.4 that her appointment on compassionate ground had been refused on the ground that the services of her late husband had not been regularised on the date of his death i.e. on 4.9.94. The services of

other applicants of the aforesaid O.As. had been regularised with effect from 20.7.95. It is stated that the Respondent No.4, requested the Respondent No.3, for the direction regarding regularisation of <sup>the</sup> services of the late husband of the applicant with effect from 4.9.94 under special circumstances, as he (the) applicant's husband had continuously served the Department from 15.6.81 to 5.9.94, vide Annexure-A-9. The Respondent No.4 also sought opinion regarding the date of regularisation in term of the aforesaid order as at Annexure-A-4, from the Additional Standing Counsel stating that they had passed typewriting test before the initial appointment as at Annexure-A/10, but the Respondents are sitting tight over the matter of her compassionate appointment. She is in indigent financial conditions facing exceptional hardship. She possesses requisite qualification for appointment to the grade of C or D posts. The late husband of the applicant had served the department from 1981 to 1994, without break and he died in harness. The family pension granted to her was cancelled illegally, vide Annexure-A-5/1 to OA-463/96, in which prayer has been made for grant of family pension, also, she was paid Rs. 2,500/- under the scheme, as at Annexure-A-11, on the death of her husband, and she has also been paid the cash equivalent of leave salary, and provident fund arrear due to her husband. The other applicants of OA-500/93 and OA-512/93 have filed another OA No.82/97, seeking the regularisation of their services from the date of their appointment, challenging their regularisation from 20.7.95. Accordingly, it is said that she is entitled to appointment on compassionate ground in

either Grade C or D post in term of circular orders of the Central Government, as at Annexure-A/2 series.

4. The Respondents have countered the claim stating in their Written Statement that the late husband of the applicant was appointed as L.D.C. on 15.6.81, on ad hoc and on purely temporary basis. He remained Ad hoc L.D.C. till his death on 4.9.94. The late husband of the applicant was one of the petitioners in OA-500/93 and OA-512/93, before this Tribunal, which by its order dated 4.4.95, directed for regularisation of their services subject to the conditions of passing typewriting test and with regard to date of regularisation, after obtaining the advice of the Additional Standing Counsel. The late husband of the applicant died on 4.9.94, and the other applicants of the aforesaid O.As. were regularised in their services as L.D.C. with effect from 20.7.95 i.e. from the date of issue of order of the Director of Census Operation, Bihar, Patna. The advice given by the Additional Standing Counsel regarding regularisation of the services of the applicants of the aforesaid two O.As. is at Annexure-A. The applicant has been denied compassionate appointment as well as family pension as her late husband was not in regular service. He was holding the Post of LDC on ad hoc basis at the time of death. The Respondent No.4 referred her case for compassionate appointment, to the Respondent No.3, but he did not accede to her request as it was not covered under the Government Rules, as at Annexure-B. Accordingly, prayer is made to reject this O.A.

5. The following issues emerge from the aforesaid pleadings of the parties for consideration:-

Firstly, whether the applicant's late husband was entitled to regularisation in service,

and, if so, from what date ?

Secondly, whether the applicant is entitled to compassionate appointment ?

6. So far the 1st issue is concerned, it is admitted position that the late husband of the applicant was appointed on temporary/ad hoc basis on 15.6.81, on substantive basis against sanctioned regular post of the LDC by the Director, Census Operations, Bihar, Patna. It is also admitted that he had been appointed after clearing selection test, including typing test, which was one of the conditions for regularisation of his services, as at Annexure-A-4/2. But, his services, and also, the services of other similarly situated appointees could not be regularised as they were required by the Respondents to clear qualifying test before their regularisation. This stand of the Respondents was challenged in the aforesaid OA No.500/93 and OA No. 512/93 filed by the late husband of the applicant and others which were disposed of vide order dated 4.4.95, as at Annexure-4/2, on the basis of the decision of the Central Administrative Tribunal, Jaipur Bench in T.A. No. 2424/86 (Gulam Nabi Versus the Union of India and Others) vide order dated 5.7.93. The Jaipur Bench of the Tribunal, dealing with the regularisation matter disposed of the aforesaid T.A. with the following directions:-

"However, the fact remains that the applicant worked on the post of L.D.C. continuously for 12 years. In such circumstances, the Respondents are directed to consider the case of the applicant for regularisation with other equally situated persons within a period of four months. They should finalise the scheme of regularisation and should implement it immediately as that the persons who have been working for more than a decade can get benefit of long service rendered by them to the Government."

The Respondents Department, filed SLP No.7617/94, against the aforesaid order of the Jaipur Bench, but it was affirmed by the Hon'ble Supreme Court and it became final and binding. It appears from the Annexure-4/2 that the Registrar General 'India', while passing the order for implementing the aforesaid decision of the Jaipur Bench, C A.T., directed to regularise the services of the applicant of the case on fulfilling the conditions of passing typing test for recruitment to the post of L.D.C. as prescribed by the Staff Selection Commission, and with regard to the date of regularisation, it was directed that the advice of the Additional Standing Counsel for the Central Government be obtained, and to implement accordingly. This Tribunal, vide its order dated 4.4.95, in the aforesaid O.A. No.500/93 and OA No. 512/93, vide Annexure-A-4, also directed to regularise the services of the applicants on fulfilling the aforesaid conditions laid down by the Registrar General of India.

7. As the follow-up actions on the order passed by this Tribunal in the aforesaid O.As. the Joint Director of Census Operations, Bihar, Patna, Respondent No.4, sought opinion of the Additional Standing Counsel, Shri Lalit Kishore, vide Annexure-A-10. This Annexure-A-10 clearly shows that the appointees, including the deceased husband of the applicant of this O.A. had already passed typing test before their initial appointment, as L.D.C. and, therefore, the opinion of the learned Additional Standing Counsel was sought as to the date from which they ought to have been regularised. The learned Additional Standing Counsel, Shri Lalit Kishore rendered his opinion to the Respondent No.4, vide Annexure-A. I may usefully extract the relevant portion

of his opinion as below:-

"I have been made to understand that the service of the said Gulam Nabi was regularised with effect from the date of issuance of the order pursuant to the decision of the Jaipur Bench, if that be so, the services of the applicants of the aforesaid cases, namely, OA No.500 of 1993 and OA No. 512 of 1993 have rightly been regularised with effect from 20.7.97."

8. I feel constraint to observe that there is nothing on the record to show as to from which date the services of the applicant, Gulam Nabi, in T.A. No. 2424/86 of Jaipur Bench, had been regularised. I have extracted the relevant portion of the decision of the Jaipur Bench of the Central Administrative Tribunal, which in its letter and spirit shows that the long spell of period in service was the criteria for giving regularisation to the incumbent concerned. There seems no point in requiring the opinion of the Additional Standing Counsel of the Respondents by the Registrar General of India in term of the aforesaid direction of the Jaipur Bench. Moreover, there appears no basis for rendering the aforesaid opinion for taking 20.7.95, as the cut-off dates for regularisation of the services by the learned Additional Standing Counsel, as at Annexure-A.

9. The learned counsel for the applicant relying upon a number of pronouncements, apart from the aforesaid decision of Jaipur Bench, which stands confirmed by the Hon'ble Supreme Court contended that the late husband of the applicant had already rendered about 13 years of services before his death. He died



in harness on 4.9.94, when the matter regarding regularisation of his service and also, the services of some other similarly situated appointees was subjudice before this Tribunal, and, eventually, in compliance of the order of this Tribunal, as at Annexure-A-4/2 all the appointees - applicants were ordered to be regularised in their services, except the late husband of the applicant, with effect from 20.7.95. The applicant is denied the benefit of compassionate appointment only on the ground that her late husband was no more alive on the date of order for regularisation of services was issued i.e. on 20.7.95, and, on the date of death i.e. 4.9.94, he (the late husband of the applicant) was still temporary. The learned counsel for the applicant vehemently assailed this stand of the Respondents and contended that in view of the long spell of services rendered by the late husband of the applicant till the date of his death, he would be deemed regularised in his services. The aforesaid cut-off date i.e. 20.7.95, as fixed for regularisation of services in respect of other appointees is without any basis and arbitrary. It has got no nexus with the facts and circumstances of the case. The late husband of the applicant had been appointed after qualifying in the test and had cleared typing test also. The late husband of the applicant had been appointed against a regular vacancy of LDC and in the aforesaid facts and circumstances, he would be deemed regularised from the date of his appointment itself. Learned counsel for the applicants has relied upon a catena of decisions, and pronounced of the CAT, the Hon'ble High Courts and the Hon'ble Supreme Court to drive home his aforesaid stand on the point. I may usefully refer to some of the

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rulings/decisions as hereunder:-

- (i) AIR 1978, Supreme Court, page 1536 - Ram Swaroop Versus State of Haryana:-

When the petitioner acquired experience of requisite number of years on the post of labour-cum-Conciliation Officer, his appointment on the post was deemed to have been regularised.

- (ii) AIR 1990, Supreme Court 883:-

Dharward District P.W.D. Literate Daily wages employees Association & others Versus State of Karnataka - Casual and Daily rated employees having completed 10 years of service ordered to be regularised;

- (iii) AIR 1992, Supreme Court page 2130 - State of Haryana Versus Pyara Singh:-

The Hon'ble Supreme Court while holding the direction by the High Court for wholesome regularisation of ad hoc or temporary employees not proper - held - the employees must have prescribed qualification at the time of ad hoc appointment and must be sponsored by the Employment Exchange. In the instant case, I find that the late husband of the applicant had been sponsored by the Employment Exchange, and undisputedly he possessed prescribed qualification at the time of temporary appointment.

- (iv) 1992 (4) SCC 112 :-

The Hon'ble Supreme Court issued direction for preparing the scheme for

absorbing casual labour who had worked for more than a year as regular employees within six months and to pay them wages equivalent to regular employees.

(v) (1993) 2 SCC 591 - Dr. M.S. Mudhal Versus Halegkar:-

The candidate not possessing requisite qualification was selected and appointed and continued to work for about 12 years. No fault on his part. Illegality committed by selection committee and appointing authority. He could not be disturbed after such a long time.

(vi) J.N. Mishra Versus Union of India,

(1987) 2 ATC 908, Jabalpur:-

Laying down the principles for determination of cut-off date for regularisation of services the Jabalpur Bench of the Central Administrative Tribunal, held, "Cut-off date for absorption should be determined with reference to a reasonable period of continuous officiation. A minimum continuous satisfactory service of two years subject to requisite qualification and test is sufficient for considering the absorption of an employee from the date he initially entered that post. A cut-off date not conforming to this principle, though fixed under an agreement with a trade Union, would be illegal.

(vii) B.R. Kumar Versus Government of India,

(1987) 3 ATC 702, Ahmadabad :-

The adhoc appointees continuing as such

for several years and fulfilling requirement of eligibility; suggestion was made for considering regular absorption of such employees and relaxed age bar, if necessary for this purpose.

(viii) (1988) 8 ATC 804 Goa:-

In case of Administrative delay in regularisation, it was held that the vacancy being available, a proposal for relaxation of eligible ad hoc promotees sent to UPSC and not rejected, but regularisation effected several years later, the said promotees declared by the Tribunal to be deemed regularised from the date of availability of vacancies;

(ix) S.S.Sharma Versus Delhi Administration, (1991) 18 ATC 353, Delhi:-

Dealing with Delhi Factories Recruitment Rule 13-A, Delhi Bench of the Central Administrative Tribunal, held that long officiation gives rise to claim for regularisation even if, it requires relaxation of Recruitment Rules. Accordingly, Government directed to take up applicant's case with the Union Public Service Commission even when he did not fulfill one of the conditions of educational qualification prescribed in the revised Recruitment Rules, which came into force after his appointment.

(x) 1992(2) SLR 781 - Bachan Kumar Sahu Versus Orissa State Housing Board:-

Casual Workers employed since about 7 years, was held; cannot be subjected to selection test for the purpose of regularisation. Suitability stood proved by their continuance for years.

(xi) (1990) 14 ATC 320 - Ranjeet Singh Versus  
Government of India through Secretary,  
Ministry of Home :-

The Chandigarh Bench of the CAT dealing with the determination of the cut/off date for regularisation of services of Lower Division Clerk held that the stipulation of trade test inserted in applicant's appointment order while there was no such stipulation for those appointed prior to 18.3.87, as discriminatory as they formed a homogeneous class;

(xii) 1994(3) J.T. 453, SC, Mul Raj Upadhyay Versus  
State of H.P.:-

Daily wage/Master Roll workers having completed 10 years' service were ordered to be regularised and to be given pay scale of regular employee with all other benefits available to corresponding post.

(xiii)(1998) 37 ATC 465:-

C.A.T., Delhi relying upon a full Bench Judgment of the Tribunal in a case where applicant appointed on ad hoc basis as Public Health Nurse, continued for 16 years and had become over age held that it was in the fitness of things if Respondents considered the applicant for regularisation for services by exercising power of relaxation as provided under the Rules".

10. As said above, the late husband of the applicant had been appointed as temporary L.D.C. against regular vacancy on which post he worked continuously for 13 years till his death. All other appointees similarly

situated were regularised following a decision of this Tribunal, as at Annexure-A-4/2 with effect from 20.7.95. He (the late husband of the applicant) possessed the requisite qualification and had cleared typing test also before the initial appointment. He, along with others, could not be regularised in their services as they were required to clear special qualifying test required by Staff Selection Commission. But the Director, Census Operations, Bihar, Patna, cancelled the notification regarding holding of the examination as far back as in the year 1985. The late husband of the applicant challenged the stand of the Respondents requiring them for appearing in the special qualifying test with prayer for regularisation, which resulted into the order as at Annexure-A-4/2. The appointees-applicants, including the applicant's husband, were ordered to be regularised on fulfilling the conditions of clearing typing test, which they had already cleared. The non-clearing of the special qualifying test was not considered bar for their regularisation in services <sup>under Rule 5(1) of the CCS(Temporary) Rules, 65</sup> ~~the~~ aforesaid cut-off date for regularisation of their services, is, a quite arbitrary, without nexus with the facts and circumstances of this case. Moreover, the applicant's husband, ~~along with~~ <sup>and</sup> 9 others were served with termination notice by the Respondents which gave rise to OA-54/87. The Respondents ~~withdrew~~ the termination notice, and, accordingly, the OA was disposed of subject to the condition of regularisation of their services, as at Annexure-A-3. Subsequently, some of them were promoted to higher grade, and also, allowed to cross Efficiency Bar, vide Annexures-13 and 13(1), therefore, it is now not open to the Respondents to deny regularisation to the late husband of the applicant.

and the settled law on the point as discussed above, I have no hesitation in holding that the applicant's husband was entitled to regularisation in the services as LDC on the ~~date~~<sup>date</sup> of his death retrospectively from the date of his appointment. This issue is, accordingly, answered in the affirmative.

11. Issue No. (ii)

It is clear from the aforesaid <sup>binding</sup> as at Issue No. (i), that <sup>the</sup> late husband of the applicant would be deemed to be in regular service on the date of his death. The Respondents have admitted in para 8 of the Written Statement that the regular service is the basic criteria for grant of compassionate appointment as well as for grant of family pension. It is also admitted position that there is an existing vacancy in Group D post. It is not denied that the applicant is possessing requisite qualification for the post of Assistant Compiler, a Grade 'C' post. It is also not denied that she is in indigent financial condition, and that the late husband of the applicant died in harness leaving behind 3 minor daughters, one minor son, and dependant parents. The hard facts are undisputed. Whereas, the appointment of the applicant on compassionate ground is denied, as said above, only on the ground that her husband had expired on 5.9.94, before regularisation in the service as ad hoc LDC. But, in view of the findings as recorded at issue No. (i) this ground is not available to the Respondents. Further, the Respondents have relied upon Annexure-B in support of the stand that under Rules, as at Annexure-B, the applicant ~~is~~ is not entitled to the compassionate appointment. But I fail

to understand as to in what way this Annexure-B helps the case of the Respondents, as it relates to the provision regarding family pension to a Government servant entering in service in a Pensionable Establishment on or after 1st January, 1964.

12. The learned counsel for the applicant on the other hand, relying upon the ~~Rulings~~ of the Hon'ble Supreme Court, as reported in (i) AIR 1991(1) PLJR, (ii) ATR (1996) SC 452, and (iii) 1998 (2) PLJR SC 181, contended that the applicant is entitled to compassionate appointment as ~~proved~~ <sup>prayed for</sup>. I may usefully refer the aforesaid decisions/rulings of the Hon'ble Supreme Court as hereunder:-

(i) 1991(1) PLJR Supreme Court, page 181  
(Smt. Sushma Gosain & Others. Versus  
the Union of India.

"Appointment on compassionate ground - purpose of providing appointment ~~is~~ to mitigate the hardship due to death of bread ~~earner~~ in the family - such appointment ~~should, therefore, be provided~~ immediately ~~to~~ redeem the family in distress -

It is improper to keep such cases for pending for years - if there is no suitable post for appointment, a supernumerary post should be created to accommodate applicant;

(ii) AIR 1996, SC, page 752 (Prabhabati Devi) Versus Union of India)  
" While dealing with Railway Establishment Code Rules 2311, 2315, it was held that casual workers acquiring status of substitute under Rule 2315 and



completed more than one year's continuous service before his death acquired right and privilege of temporary servant and his dependants were eligible for family pension under Para 801 of the Manual of Railway Pensions Rules.

(iii) 1998(2) PLJR, Supreme Court, 181

(Director of Education Versus Pushpendra Kumar and Others)

Relying upon the judgment, as reported in 1994(4) SCC page 138, the Hon'ble Supreme Court held "Compassionate Appointment - the object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread earner which has left the family in penury and without any means of livelihood - out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment - such a provision makes a departure from the general provisions providing for appointment on the post by following particular procedure - 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 - an exception cannot subsume the main provision to which it is an exception and thereby nullify the main provision - care has, therefore, to be taken that a provision for grant of compassionate

employment, which is in the nature of an exception to the general provisions, does not unduly interfere with the right of other persons who are eligible for appointment to seek employment against the post would have been available to them, but for the provision enabling appointment being made on compassionate grounds of the dependant of a deceased employee."

The Hon'ble Supreme Court further held that "Compassionate Appointment - provision that dependant would be provided a class III post and in case such post is not available, a supernumerary post to be created and dependant appointed subject to his fulfilling the requisite qualifications - if the authority find that such a provision would amount to fulfilling all the class III posts by such dependants only, thereby depriving the other general candidates, the authority may rightfully amend the provisions - the provisions, therefore, have to be construed harmoniously - such dependants to be appointed on a class III post, if it is so available, otherwise a supernumerary class IV post is to be created and dependant appointed accordingly."

13. Apart, there are other various decisions of the Central Administrative Tribunal on the point which <sup>lends</sup> support to the case of the applicant. I may refer to some of them as hereunder:-

(i) Satya Bhamu Uma Gaikward Versus Union of India, A.T.R. 1993 (1) (CAT) 32 Bombay:-

Following the law laid down by the Hon'ble Supreme Court, a compassionate

appointment was ordered even in the case of non-existence of vacancies, against supernumerary post;

(ii) Anchal Kandi Versus Divisional Railway

Manager Palghat (1990) 12 ATC page 235 - Ernakulam

Statutory Rules providing for compassionate appointment to dependants of decategorised employees - administrative circular of three Personnel Officers, Southern Railway, prescribing certain conditions of eligibility for compassionate appointment.

The said circular directed to be ignored for taking decision on applicant's request for such appointment;

(iii) H. Serajulla Khan Versus D.G. Post

(1992) 20 A.T.C. Madras:-

Whether compassionate appointment should be commensurate with educational qualification - held, Government has to keep in view the Administrative <sup>exigency</sup> ~~factor~~, vis-a-vis, the candidate's interest. Hence, appointment on lower post can also be considered despite eligibility for higher post.

14. Thus, I find that there is no denial of the fact that the applicant is the ~~widow~~ of the deceased Government servant, and she is in indigent financial need. She possesses requisite qualification for appointment as Assistant Compiler. There is no denial of the vacancy of the aforesaid post available with the Respondents. The claim of the applicant for appointment on compassionate ground is fully covered by the principles as laid down in the aforesaid rulings of the Hon'ble Apex Court. Accordingly, I hold the applicant ~~is~~ <sup>for consideration</sup> entitled to the appointment on compassionate ground. This issue is, accordingly, answered.

15. In view of the aforesaid discussions, I find that the case of the applicant has all the trappings of compassionate

appointment, and, accordingly, direct the respondents, particularly, Respondent No.4 (The Joint Director, Census Operations, Boring Canal Road, Patna) to consider and finalise the case of compassionate appointment of the applicant on the post of Assistant Compiler, or any Group 'C' post, if there is existing vacancy readily available, or on a Group D post, within a period of two months from the receipt of a copy of this order. There shall be no order as to costs.

SKS

*Lakshman Jha*  
18.11.98  
( Lakshman Jha )  
Member (J)