
(2012) 08 JH CK 0110
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4624 of 2006

Bishmani Orain

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-08-2012

Acts Referred:

Citation : (2012) 08 JH CK 0110

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Sunil Kumar, for the Appellant; R.N. Roy, G.P. III for the State and Mr. Jalisur Rahman, J.C. to G.P. III, for the Respondent

Judgement

Alok Singh

1. Late Karma Oraon, husband of the petitioner, who was working as "Clerk" in Project High School, Pogenga, P.S.- Palkot, Gumla, has died in harness on 17.07.1993. Petitioner has applied for compassionate appointment, vide application dated 04.01.1994 and again, vide application dated 18.03.1995. Petitioner had earlier filed W.P.(S) No. 5185 of 2001, which was disposed of by this Court, vide order dated 11.10.2001 with the direction to forward the matter to the Deputy Commissioner, Gumla, to place the case of the petitioner before Compassionate Appointment Committee and to take the decision within three months. Petitioner's claim was rejected, vide order dated 28.12.2001, on the ground that petitioner had shown her unwillingness for her compassionate appointment. Petitioner again approached this Court by way of filing W.P.(S) No. 774 of 2005. This Court, vide judgment dated 29.06.2005 was pleased to quash the order dated 28.12.2001 and had directed the District Education Officer, Gumla, to forward the petitioner's application forthwith to the Deputy Commissioner, Gumla, who on receipt shall place the same before the Compassionate Appointment Committee for taking appropriate decision. Thereafter, vide order dated 09.06.2006, again, petitioner's application was rejected on the ground that petitioner is not having requisite qualification of

Class- VIII. Feeling aggrieved, petitioner has filed present writ petition. I have heard learned counsel for the parties and have carefully perused the record.

2. Learned counsel appearing for the petitioner, while placing reliance on the circular/notification No. 11946 dated 30.11.1984 issued by the then Government of Bihar, has submitted that in view of Clause- 6 of the circular, in the case of female seeking compassionate appointment, appointing authority shall be competent to relax the requisite qualification with the condition that such female candidate shall acquire the knowledge of reading and writing within two years. Clause- 6 of the circular is being reproduced herein as under: -

vase mamlon me jisme kisi mahila ki chaturthvargiya pad par niyukti ka prastav ho, niyukti padadhikari niyukti ki sharton ko shithil karne ke liye saksham honge par yah Shithilikaran samiti ki anushansa par ki jayegi. Mahila ummidwar ke liye cycle chalane ki योग्यता की शर्त Kshant kar di jayegi तथा शक्यता योग्यता की शर्त भी इस शर्त पर शिथिल की जा सकेगी कि लिखने-पढ़ने के जैसे सामान्य गान की अवस्यक्ता सम्बन्धित महिला उम्मीदवार द्वारा नियुक्ति के दो वर्षों के अंदर हासिल कर लिया जायेगा.

3. Learned counsel for the State, on the other hand, has argued that as per Clause- 6, on the recommendation of the District Compassionate Committee, Appointing Authority can grant relaxation. However, in the present case, Committee has not recommended for relaxation, therefore, no fault can be attributed in the decision of the Appointing Authority. He has further contended that Clause- 6 is not mandatory, but is directory in nature.

4. Perusal of the impugned order reveals that application was rejected only on the ground that petitioner does not have requisite qualification and can only write her name, but cannot read anything. Order impugned does not show that Committee has ever applied its mind in Clause- 6 of the cited circular/notification. Matter stands remitted to the Deputy Commissioner, Gumla, to forward the same to the Compassionate Appointment Committee for reconsideration in accordance with law. Entire exercise shall be completed preferably within four months from the date certified copy of this order is produced before the Deputy Commissioner, Gumla.