

(2005) 06 JH CK 0033
In the Jharkhand High Court
Case No : Writ Petition (S) No. 774 of 2005

Bishmani Urain

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-06-2005

Acts Referred:

Citation : (2005) 4 JCR 244

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Sunil Kumar, for the Appellant; M.K. Laik, Sr. SC I, for the Respondent

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this application the petitioner has prayed for a direction to the respondents to appoint the petitioner on compassionate ground whose husband Karma Oraon died in harness in the year 1993. The petitioner, after the death of her husband, filed an application for her compassionate appointment. The application was filed within the prescribed period of five years. When the order for appointment was not passed, the petitioner moved this Court in WP (S) No. 5185 of 2001. In the said writ application it was noticed that an application filed by petitioner's daughter for her appointment on compassionate ground was rejected on the ground that the same was filed after the prescribed period, but so far the petitioner is concerned, she claimed to have filed application within time but the same was not considered. This Court, by order dated 11.10.2001 disposed of the said WP (S) No. 5185 of 2001 directing the District Education Officer, Gumla to find out as to whether the petitioner had preferred any such application within time or not and in case such application is filed within time, then to forward the same to the Deputy Commissioner, Gumla for placing the same before the Compassionate Appointment Committee for taking decision within a period of three months from the date of receipt of representation. The petitioner, thereafter, filed representation, but the District

Education Officer, Gumla, instead of forwarding the matter to the Deputy Commissioner, has himself taken up the same and by the impugned order dated 28.12.2001, as contained in Annexure-2, rejected the petitioner's claim on the ground that the petitioner had shown her unwillingness for her compassionate appointment on affidavit, submitted by her earlier.

2. This Court had directed the District Education Officer just to see as to whether the application for compassionate appointment was filed by the petitioner within time or not and if filed within time, then to forward the said application to the Deputy Commissioner, Gumla for decision on her application by the Compassionate Appointment Committee, Contrary to the order of this Court, the District Education Officer, Gumla himself decided the claim by refusing the same by impugned order Annexure-2. The said order, Annexure-2 being contrary to the direction of this Court, is wholly without any authority and the same is vitiated in law. Apart from that, it is admitted position that the petitioner had filed application for her compassionate appointment within a period of five years. It has been mentioned in the impugned order that information regarding her unwillingness on affidavit was given by the Head Master of Project High School, Pojenga which the petitioner has denied. In the counter affidavit filed by the respondents the same ground has been taken and the alleged affidavit sworn by the petitioner has been brought on record as Annexure "A". In the said affidavit, the petitioner is said to have put her LTI. However, there is no mention in the affidavit that the contents of the said affidavit was read over and explained to the petitioner and she had understood the said contents. Petitioner is admittedly an illiterate lady and knowledge of the contents of the affidavit cannot be presumed in absence of any convincing material on record.

3. Since the petitioner had applied within time and this Court has already directed the concerned authorities to consider the petitioner's claim for compassionate appointment by order dated 11.10.2001 passed in WP (S) No. 5185 of 2001 and there is nothing cogent on record to show withdrawal of application by the petitioner. In view of the preceding discussions, the impugned order is held illegal and is hereby quashed. The District Education Officer, Gumla is directed to forward the petitioner's application forthwith to the Deputy Commissioner, Gumla who on receipt of the same shall place the petitioner's application before the Compassionate Appointment Committee for taking appropriate decision. All the exercises must be completed within a period of six weeks from the date of receipt/production of a copy of this order. This writ application is, accordingly, allowed.