
(2008) 08 JH CK 0113
In the Jharkhand High Court

Most. Rina Ghosh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 27-08-2008

Acts Referred:

Citation : (2009) 1 JCR 69

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—Prayer in this writ application has been made for quashing the letter No. 438 dated 24.4.2007 (Annexure 6) issued by the respondent No. 4 and also the decision of the Establishment Committee dated 29.11.2005 whereby the petitioner's prayer for her appointment on compassionate ground has been rejected.

2. Learned Counsel for the petitioner explains that the petitioner had applied for her compassionate appointment on the ground of demise of her husband who died in harness while serving under the respondents. As per Annexure-6, the petitioner has been informed that the Establishment Committee has rejected her prayer on the grounds namely:

- (i) That the age of the petitioner has exceeded the maximum limit of 40 years;
- (ii) That the petitioner does not possess the requisite qualification for Class-IV post;
- (iii) That the application has been filed beyond the period of limitation of five years.

3. Learned Counsel explains that none of these grounds are tenable and applicable in the case of the petitioner since it being a matter of compassionate appointment, the Government Circular (Annexure 5) issued by the Department of Personnel and Administrative Reforms, State of Bihar vide Memo No. 3/C 2-60117/97-KA. 8093 dated 25.7.1998 declares in Clause 3 of the notification,

that in the matter of compassionate appointment, the head of the concerned department has the power to relax the maximum age of the applicants. Learned Counsel explains further that by another notification of the State Government dated 30.11.1984 vide Memo No. 11946, the educational qualification criteria has been waived in respect of females whose candidature is to be considered for appointment on compassionate ground.

4. Learned counsel explains further that though in the impugned order, a third ground has been taken that the application was filed beyond the period of limitation of five years but in the counter affidavit filed by the respondents, they have acknowledged that the application of the petitioner was received within the period of limitation. Learned Counsel submits that the impugned order does not indicate that the concerned authorities of the Establishment Committee have considered the petitioner's application in the light of the above mentioned circulars under which the head of the department has been vested with the powers to relax the upper age limit and also the rule relating to the waiver of the minimum educational qualification and as such the impugned order is improper and amounts to discrimination and non-application of mind and therefore, the impugned order is liable to be set aside.

5. Counter affidavit has been filed on behalf of the respondents reiterating the same grounds as appearing in the impugned order though they have conceded that the application for compassionate appointment was received within the period of limitation.

6. In the light of the above facts and circumstances, the respondents are directed to reconsider the application of the petitioner for her compassionate appointment in the light of the directions contained in the Government Circulars/ Notifications referred to by the petitioner. For this, the petitioner shall file a fresh representation before the respondent No. 5 along with a copy of this order and shall state in her representation the claim which she has made and the grounds in support thereof. Within two months from the date of receipt of the representation, the concerned respondents shall dispose of the representation by a reasoned and speaking order in accordance with law and shall communicate the same to the petitioner.

7. With these observations, this writ application is disposed of.