
(2004) 07 PAT CK 0102
In the Patna High Court
Case No : LPA No. 842 of 2003

Renu Devi

APPELLANT

Vs

Director Central Reserve Police Force, Directorate and Others

RESPONDENT

Date of Decision : 23-07-2004

Acts Referred:

Citation : (2004) 2 BLJR 1504 : (2004) 3 PLJR 740

Hon'ble Judges : Nagendra Rai, Acting C.J.; S.N. Hussain, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Nagendra Rai, A.C.J. and S.N. Hussain, J.—The appeal is barred by limitation.

2. Having perused the averments made in the limitation petition and after having heard the learned counsel for the appellant, we are satisfied that sufficient ground has been made out to condone the delay in filing the appeal. Accordingly, the delay in filing the appeal is condoned.

3. This appeal is directed against the order dated 11.3.2003 passed in CWJC No. 12247 of 2001 whereby the learned single Judge dismissed the writ application filed by the appellant for quashing the order by which her prayer for appointment on compassionate ground has been rejected.

4. The factual matrix for disposal of the present appeal are that the husband of the appellant was Sepoy in the CRPF and he died in harness on 21.4.96. Thereafter, the appellant filed an application for appointment on compassionate ground and claimed appointment as lady constable. She was found fit by the authorities but was declined appointment on the ground that there is no vacancy and thereafter she filed another application that she being helpless lady may be offered other post. The said prayer has been rejected on the ground that when she filed the second application she was over age.

5. The appointment on compassionate ground is made to mitigate the hardship

caused to the family of the bread earner due to sudden demise. There is no dispute that the deceased died leaving behind the appellant and her two minor children and there is no source of income to her. It is also not in dispute that she fulfills all the criteria laid down for appointment on compassionate ground. It is also not in dispute that when she filed the first application she was not over age meaning thereby she was eligible for appointment as being below the cut of age. In a case of appointment on compassionate ground, no person can claim to a particular post and it is for the employer to consider and offer the post. Only because the appellant claimed a particular post the authorities should not have rejected the claim on the ground that there is no vacancy, rather, should have offered the other post. Admittedly, she was within the age when she filed the first application and her age for the purpose of appointment has to be counted with reference to the first application. Second application was only a reminder to the authorities to appoint the appellant on any vacant post.

6. In our view, rejection has been made on too technical ground which defeat the very object of compassionate appointment. Thus, we find merit in this appeal and set aside the order passed by the authorities contained in Annexure-5 and 6 to the writ application and hold that the rejection of her application on the ground of her over age is not correct in the eye of law meaning thereby her age for appointment on compassionate ground has to be considered on the basis of the first application. We direct the concerned authorities to consider her case for appointment on any other post by treating her application as valid one. Such decision has to be taken by the respondent within two months. The order of the learned single Judge dated 11.3.2003 passed in CWJC No. 12247 of 2001 is also set aside.

7. In the result this appeal is allowed.