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**(2015) 07 SC CK 0089**

**In the Supreme Court Of India**

**Case No :** Civil Appeal No. 4923 of 2015 (Arising from SLP (C) No. 30268/2014)

State of Gujarat and Others

APPELLANT

Vs

Chitraben

RESPONDENT

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**Date of Decision :** 01-07-2015

**Acts Referred:**

**Citation :** AIR 2015 SC 2878 : (2015) LabIC 3520 : (2015) 7 SCALE 642 : (2015) 4 SCT 204

**Hon'ble Judges :** J.S. Khehar, J;A.K. Goel, J

**Bench :** Division Bench

**Advocate :** Hemantika Wahi and Vinakshi Kadan, for the Appellant; Aparna Jha, Advocates for the Respondent

**Final Decision :** Disposed Of

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**Judgement**

J.S. Khehar, J—The Respondent's husband was engaged as a Peon with the Industrial Court, Apna Bazar, Ahmedabad. He died in harness on 13.06.2006. The Respondent, being a dependent of her husband, submitted an application for appointment on compassionate grounds on 17.07.2006. The claim of the Respondent was declined by an order dated 20.09.2007, on the ground that she did not fulfill the educational qualifications in terms of the notification dated 16.03.2005.

2. In the first instance, the Respondent assailed the order passed on 20.09.2007 by approaching High Court by filing Special Civil Application No. 30218 of 2007. The same was rejected by an order dated 18.12.2007. A series of litigation and administrative orders came to be passed thereafter, which eventually culminated in the passing of the impugned order on 05.05.2014. By the impugned order, the High Court while dismissing letters patent appeal No. 543 of 2014 reiterated the position expressed by the learned Single Judge, namely, that the Respondent deserves to be appointed on compassionate grounds.

3. The impugned order passed by the High Court on 5.5.2015 is subject matter

of challenge through the instant special leave petition.

4. Leave granted.

5. We have heard learned Counsel for the rival parties.

6. Both learned Counsel representing the Appellants as also the Respondent, have placed emphatic reliance on the resolution dated 10.3.2000 (Annexure P1) which expounds the terms and conditions of engagement on compassionate grounds, inter alia, on account of death of an employee in harness. Learned Counsel for the Appellants placed reliance on paragraph 5C of the resolution dated 10.3.2000 in order to substantiate her claim, that the Respondent was required to satisfy the conditions of educational eligibility postulated in the recruitment rules. Paragraph 5C of the above resolution is being extracted hereunder:

5(C) The candidate for compassionate appointment should be eligible and fit in all respects under the provisions of the Recruitment Rules of the post of appointment viz.-

The Candidate,

(1) Possessing educational qualification of Std. IV to IX, for Class-IV,

(2) Possessing educational qualification of S.S.C. or more than that, for the lowest category of Class-III.

(3) Possessing educational qualification of driver, and possessing other qualification, for driver and

(4) Illiterate candidate not possessing any educational qualifications, in whose Recruitment Rules no education qualification is prescribed, may be given appointment on posts like Hamal, sweeper, water-boy, scavenger of class-IV.

(Emphasis is ours)

7. Having perused paragraph 5C of the resolution dated 10.3.2000, we are satisfied in concluding, that it was imperative for candidates claiming appointment on compassionate grounds to fulfill the terms and conditions of eligibility for appointment postulated under the relevant recruitment rules. Paragraph 5C illustratively depicts the eligibility conditions, then prescribed, for different posts, i.e., eligibility conditions pertain to the period when the resolution dated 10.3.2000 was issued.

8. It is not a matter of dispute, that the Government of Gujarat, in its General Administration Department, issued a notification dated 16.03.2005 laying down eligibility conditions for appointment in different class IV posts. Insofar as the eligibility for direct recruitment is concerned, the same is stipulated in Rule 3 of the afore-stated rules, which is being extracted hereunder:

3. To be eligible for appointment by direct selection to the post mentioned in Rule

2, a candidate shall:

- (i) not be less than 18 years and not more than 25 years of age;
- (ii) have passed Secondary School Certificate Examination.
- (iii) Possesses skills relevant to the job as may be prescribed by Government from time to time.

(Emphasis is ours)

A perusal of Rule 3(ii) indicates, that to be eligible for appointment by direct recruitment against a class IV posts, the concerned candidate should possess the "secondary school certificate". It is therefore apparent, that eligibility for appointment on compassionate grounds, under resolution dated 10.3.2000, after 16.3.2005 (when the aforesaid notification in respect of recruitment to class IV posts was issued), requires to possess the qualification stipulated therein, i.e., "secondary school certificate" qualification.

9. It is not a matter of dispute, that the Respondent has possessed only the qualification of IV standard, and does not possess the qualification of "secondary school certificate" examination, as has been postulated in Rule 3(ii) of the notification dated 16.3.2005. It is therefore imperative for us to conclude, that the Respondent was not qualified for appointment against a class IV posts, when her husband died in harness on 13.6.2006. When the Respondent applied for appointment on compassionate grounds on 17.07.2006, it was necessary for her, to fulfill the qualification stipulated in the notification dated 16.3.2005. Since, admittedly the Respondent did not fulfill the aforesaid qualification, she was not eligible to claim appointment on compassionate grounds, under the resolution dated 10.3.2000.

In the above view of the matter, the impugned order passed by the High Court deserves to be set aside. The same is accordingly hereby set aside.

The instant appeal is accordingly allowed.