



2026:DHC:3131-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 429/2019 & CM APPL. 1954/2019
MILITARY ENGINEERING AND ANR.Petitioners

Through: Mr. Sandeep Tyagi, SPC

versus

RUKSANA MAKWARespondent
Through: Mr. Tarunesh Kumar, Mr.
Rajesh Tiwari, Hemant Kumar, Mr.
Neelmani Samir, Mr. Kaushikesh Kumar
and Mr. Tushar Kanth, Adv.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

15.04.2026

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The matter is being taken up today as 14 April 2026 was declared as a holiday on account of birthday of Dr. B.R. Ambedkar.

OM PRAKASH SHUKLA, J.

1. This writ petition has been filed challenging the Order dated 12.05.2017 ("*first impugned order*") passed by the learned Central Administrative Tribunal, Principal Bench¹, New Delhi in O.A. 1539/2014, allowing the O.A. filed by the Respondent (Applicant before the learned Tribunal) herein. This petition also seeks to assail the Order dated 12.10.2018 ("*second impugned order*") passed by the learned Tribunal in Review Application bearing No. 225/2017 filed by

¹ "Tribunal" hereinafter



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the Petitioners herein in the aforesaid O.A.

2. The relevant facts to the extent necessary for our adjudication is set out below.

3. Late Shri Mohd. Umar Ismail Makwa, the husband of the Respondent, was employed as a Mate (FGM), Garrison Engineer at New Delhi. He unfortunately expired on 13.02.2009 due to illness, leaving behind his wife, i.e., Respondent, and two children.

4. Following his demise, the Respondent, on 30.05.2019, submitted an application to the Petitioners seeking appointment on compassionate grounds for a suitable post, including that of Mazdoor/Chowkidar/Peon.

5. By way of communication dated 28.12.2010, the Petitioners informed the Respondent that her application was not recommended for compassionate appointment due to non-availability of vacancies.

6. Subsequently, the Petitioners claim that upon receipt of vacancies for appointment on compassionate grounds for the years 2009–10, 2010–11 and 2011–12, being 17, 26 and 24 vacancies respectively, the case of the Respondent was reopened and reconsidered.

7. As per the applicable scheme, including the Department of Personnel and Training O.M. dated 09.10.1998 and the Ministry of Defence instructions dated 09.03.2001 (as amended on 22.01.2010),



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cases of compassionate appointment have to be assessed on merit by the competent authority. The assessment is to be made by allotting points on various parameters such as family pension, terminal benefits, income from property etc.

8. Applying the aforementioned criteria, the Respondent was awarded 74 points, which is stated by the Petitioners to be less than the points obtained by the last candidate considered for compassionate appointment in each of the three relevant years.

9. Consequently, *vide* letter dated 26.07.2012, the Respondent was informed that her application for compassionate appointment had been considered and rejected for three consecutive years i.e. 2009-2010, 2010-2011, and 2011-2012 on account of her lower position in merit and non-availability of sufficient vacancies. Accordingly, it was informed that her case was closed since it was more than three years old.

10. Being aggrieved by such rejection, the Respondent approached the learned Tribunal by filing O.A. No.1539/2014 and seeking direction to the Petitioners to grant her compassionate appointment for the post of Mazdoor/Chowkidar/Peon.

11. During the pendency of the said O.A., in the years 2014 and 2015, the Respondent was called for reconsideration of her case by the higher authorities. However, no final decision was taken in her favour.

12. Thereafter, the learned Tribunal, *vide* the first impugned order,



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allowed the said O.A. primarily on the ground that vacancies were in fact available during the relevant years and that several appointments had been made on compassionate grounds, which belied the Petitioners' stand of non-availability of vacancies. The learned Tribunal further held that the Respondent had not been treated fairly considering her indigent situation in comparison to other candidates recommended, and accordingly granted relief in her favour.

13. Thereafter, the Petitioners filed a Review Application before learned Tribunal which was dismissed *vide* the second impugned order on the ground that no error apparent on the face of the record was made out.

14. Aggrieved by the aforesaid, the Petitioners have approached this Court by way of the present petition.

15. Mr. Sandeep Tyagi, learned SPC appearing for the Petitioner, primarily contends that the Respondent's case was duly considered for appointment on compassionate grounds for three consecutive years, i.e., 2009–10, 2010–11 and 2011–12. However, she could not be recommended for appointment as she had secured lower points than the last recommended candidate in the respective years. In support of this submission, reliance was placed on the tabulated data placed on record indicating the points secured by the Respondent vis-à-vis the cut-off points of the last selected candidates for the said years.

16. Mr. Tyagi also contends that the learned Tribunal erred in holding that the Petitioners had taken contradictory stands regarding



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availability of vacancies. It is submitted that the initial reference to non-availability of vacancies and the subsequent availability from 2009–2012 do not indicate any inconsistency, as the vacancies arose at later stages, in light of which the Respondent's case was duly considered for each relevant year, and her non-selection was solely due to her lower merit position and not on account of any arbitrary or contradictory stand by the Petitioners.

17. On the other hand, learned Counsel for the Respondent contends that the action of the Petitioners was discriminatory and inconsistent. It is emphasised that seven candidates, who had secured points of 35, 37, 38, 45 (twice), 47 and 55, were granted appointment on compassionate grounds after relaxation of educational qualifications, whereas the Respondent, despite having secured higher points, was denied such appointment.

18. We have heard the learned Counsel for the parties and perused the material on record.

19. It is not in dispute that ultimately there were 17, 26 and 24 vacancies for the years 2009–10, 2010–11 and 2011–12 respectively, and that the Respondent's case was duly considered for each of these years.

20. Therefore, the limited question that arises for our consideration is whether the denial of compassionate appointment to the Respondent was arbitrary or discriminatory, particularly in light of the allegation that candidates with lower merit were granted appointment in



preference to her.

21. As per the law laid down by Supreme Court in a catena of decisions on the appointment on compassionate ground, including *State of U.P. v. Premlata*², *State of Karnataka v. V. Somyashree*³, and *N.C. Santhosh v. State of Karnataka*⁴, it is well settled that appointment on compassionate ground is not a matter of right, and claim for such appointment is traceable to the specific scheme and other rules framed by the employer for offering appointment on compassionate grounds.

22. In the present case, as per scheme in vogue, the application process, preparation of the list of eligible candidates, and award of points form part of the selection process upon consideration of factors such as family pension, terminal benefits, monthly income etc. Mere inclusion in the eligibility list does not confer any right to appointment, unless the candidate secures sufficient merit to fall within the range of candidates selected against the available vacancies.

23. Applying the requisite parameters, the Respondent had secured 74/100 points by the competent authority. Notably, there is no challenge to the manner in which the points of the Respondent were assessed against the requisite parameters.

24. We have also perused the list of candidates approved for compassionate appointment along with the points awarded to them for

² (2022) 1 SCC 30

³ (2021) 12 SCC 20

⁴ (2020) 7 SCC 617



the period 2009–2012 against the earmarked vacancies, as also relied upon by the Petitioners. The tabulated data, the correctness of which has not been controverted by the Respondent, is reproduced thus for the sake of convenience:

| Year of Vacancies | No. of vacancy released | Merit points obtained by the Respondent | Merit points obtained by the last selected candidates |
|-------------------|-------------------------|-----------------------------------------|-------------------------------------------------------|
| 2009-10 | 17 | 74 | 85 |
| 2010-11 | 26 | 74 | 81 |
| 2011-12 | 24 | 74 | 78 |

25. The material placed on record indicates that the points secured by the last selected candidates in the 2009-2010, 2010-2011, 2011-2012 were 85, 81 and 78 respectively.

26. Upon comparison, it is evident that the Respondent did not secure points sufficient to fall within the zone of consideration in any of the relevant years. The record further reflects that final recommendation of all candidates was strictly merit-based. In such circumstances, rejection of the Respondent's claim for compassionate appointment, therefore, a natural consequence of her lower position in merit as also communicated to her by letter dated 26.07.2012.

27. As regards the contention that certain candidates with lower merit were appointed in preference to the Respondent, the same remains unsubstantiated. The Respondent has not been able to point to



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any material on record to demonstrate that any candidate securing fewer points was appointed ahead of her as alleged.

28. On the contrary, the record demonstrates that the points secured by the Respondent were lower than those of the last recommended candidates in the respective years. In these circumstances, we are constrained to find that the decision of the Petitioners in denying the compassionate appointment to the Respondent does not suffer from any error to warrant our interference.

29. The learned Tribunal appears to have proceeded on the assumption that the Respondent was as, or more, financially distressed and in greater need of assistance than certain candidates who were granted compassionate appointment. However, the learned Tribunal have disregarded the inescapable fact that the Respondent secured points lower than the last selected candidate in each of the three relevant years. Additionally, the learned Tribunal could not substitute its own assessment of the Respondent's financial need and eligibility in place of that made by the competent authority in accordance with the applicable scheme.

30. Therefore, we find no infirmity in the reasons assigned for rejection of the Respondent for the compassionate appointment as there is nothing on record to indicate any arbitrariness or discriminatory treatment adopted by the Petitioners. The appointments were made in accordance with applicable scheme and based on the points assigned by the competent authority.



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31. For the aforesaid reasons, the impugned orders are quashed and set aside.

32. The writ petition is accordingly allowed. No order as to costs.

33. However, given the facts of the case, in case the competent authorities are in a position to accommodate the Respondent in some post, so as to enable her to tide over her situation caused due to immense financial hardship caused by the sudden and unforeseen loss of the earning member of a family, we sincerely hope that efforts would be made in that direction. In that event, this order would not stand in the way granting succour to the Respondent. We have made this observation in the peculiar facts of this case.

OM PRAKASH SHUKLA, J

C.HARI SHANKAR, J.

APRIL 15, 2026/at