



2025:DHC:6863-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 4786/2022

SHIVANAND

.....Petitioner

Through: Ms. Sriparna Chatterjee, Mr. Soumitra Chatterjee, Ms. Manish and Ms. Mansi, Advs.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Neeraj, Sr. PC with Mr. Vedansh Anand, GP, Mr. Rudra Paliwal and Mr. Soumyadip Chakraborty, Advs. for UOI with Mr. Amit Kumar, CISF

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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13.08.2025

C. HARI SHANKAR, J.

1. We state, with a sense of satisfaction, that this is one case in which we are able to render grass roots social justice, which, at the end of the day, is the very *raison d'etre* of the judicial institution.

2. The father of the petitioner, while working as Constable in the Secretariat Security Force¹, died in harness on 26 March 2006. Following this, with due expedition, the petitioner's mother applied for grant of compassionate appointment to the petitioner, who was

¹ "SSF", hereinafter



then 17 ½ years of age, against one of the 19 vacancies earmarked in the SSF for being filled by compassionate appointment, on 4 October 2006. In her application, she specifically prayed that the petitioner be granted compassionate appointment after he had attained the age of 18.

3. The application languished with the respondents for six years. In the interregnum, the 13 vacancies which were available for compassionate appointment in the SSF were transferred to the Central Industrial Security Force².

4. The CISF wrote to the petitioner on 28 December 2012 as under:

“OFFICE MEMORANDUM

Sub: Appointment of the dependents of deceased SSF personnel/Reception Officers in CISF on compassionate grounds – regarding.

It may be recalled that in 2001 Secretariat Security Force (SSF) under Ministry of Home Affairs was declared a dying force. SSF was revived in February, 2011. The 378 posts of SSF which fall vacant during that period were transferred to CISF. Since as per the Scheme of Compassionate Appointments, 5% of these vacancies are to be filled up by appointment of dependents of Government servant dying while in service on compassionate basis. Hence 19 posts in Group 'C' or 'D' are required to be filled up on Compassionate basis against 378 posts of SSF transferred to CISF. CISF has already made appointment of 6 wards of deceased SSF/ Reception Organisation employees on Compassionate basis.

The pending requests from dependent of 44 deceased employees of SSF and Reception Organisation under Secretariat Security Organisation were screened by duly constituted Screening Committee under Chairpersonship of Mrs. Shyamala Mohan, Director (A&V).

² “CISF”, hereinafter



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The Committee has recommended 13 dependents of deceased employees of SSF/Reception personnel as per Annexure for appointment on compassionate basis against the remaining 13 posts falling under Compassionate Appointment Quota against 378 posts transferred to CISF.

The original applications for compassionate appointment of these 13 persons alongwith the minutes of the meeting of the Screening Committee are forwarded herewith for further action towards their appointment on compassionate basis in CISF.

(AMARENDRA SINGH)
Under Secretary to the Govt. of India”
(Emphasis supplied)

A copy of the aforesaid letter was addressed to the petitioner as he was one of the persons who had been recommended for appointment against the afore-noted 13 posts.

5. Following this, on 30 August 2013, the CISF wrote to the petitioner as under:

“OFFICE OF GROUP COMMANDANT
Central Industrial Security Force (CISF)
Home Ministry

FileNo.:32015/CISF/Comp. apt/SSF/Admin./group/2013/3515

CISF Group Head Quarter
Saket, New Delhi-17
Dated: 30.08.2013

Shivanand S/o Late Surender Kumar
H-875, VPO, Bakhtawarpur,
New Dlehi-110036

Sub: In respect of appearance for compassionate appointment for the post of Constable/GD



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For the selection of constable/GD Post on compassionate ground you are to appear on 23.03.2013 at 8:00 Hours at the following address. At the time of appointment you are to bring all your educational certificates, caste certificate and experience letter in original as well as photocopy which should be duly attested by Gazetted Officer, alongwith three passport size photographs.

Enclosure:
As above

Sd/-
30.08.2013
Group Commandant CISF
Group Head Quarter,
Saket, New Delhi”

6. Ms. Chatterjee, learned Counsel for the petitioner, submits that the petitioner had visited the office of the respondent in response to the aforesaid letter, but that there was no further communication. As against this, Mr. Neeraj, learned SPC, submits that the petitioner had been called four times and did not turn up thrice and failed on one occasion.

7. In the interregnum, the aforesaid 13 posts were reverted back to the SSF.

8. Following this, the Ministry of Home Affairs³ wrote to the petitioner on 15 May 2017 as under:

**“NO. A-12012/01/2011-SSO
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

NDCC-II Building, Jain Singh Road,

³ “MHA”, hereinafter



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New Delhi, dated the 15th May, 2017

To

As per list attached.

Subject: Appointment on compassionate posts in Secretarial Security Force, Ministry of Home Affairs-regarding.

Sir/Madam,

I am directed to say that *your name has been recommended for appointment on compassionate basis by the Screening Committee in November, 2013* and accordingly your name was forwarded to CISF for compassionate quota vacancies accruing against SSF posts transferred to that organization between 2001 to 2011. In view of the inability of CISF to appoint any of the recommended candidates, *it is now being considered to appoint the recommended candidates on compassionate basis against existing compassionate quota vacancies in SSF.* In order to enable this Ministry to consider your application for compassionate appointment in SSF you are requested to submit the current and updated information regarding the financial status as per the enclosed proforma.

Yours faithfully,
(S. Samanta)
Under Secretary to the Govt of India”
(Emphasis supplied)

9. As directed by the aforesaid letter, the petitioner submitted the documents relating to his financial status.

10. Thereafter, a Screening Committee considered the case of all the aspirants who had applied for compassionate appointment on 20 July 2017. Paras 3 and 4 of the minutes of the screening committee reads thus:

“3. The Committee observed, that the appointment of the 13 dependents of the SSF personnel who died while in service between 2001 and 2011, who were recommended by the Screening Committee in September, 2012, *has already been quite delayed.* In



view of the opinion given by DOPT and Department of Legal Affairs in the matter, *these candidates may be considered for appointment on compassionate basis against the existing compassionate quota vacancies of Constables in SSF subject to their being otherwise eligible for such appointment as on date*. The committee again considered the current financial and family details in respect of these 13 recommended candidate and observed as follows:

- a) That 2 of the candidates recommended for compassionate appointment have since expired. (Ms. Mukesh Kumari and Shri Zaneet Kumar). Now, Shri Amit Kumar, brother of Shri Zaneet Kumar has applied for compassionate appointment in place of Shri Zaneet Kumar.
- b) That one of the candidates recommended for compassionate appointment is involved in criminal case (Shri Naveen Kumar).
- c) That one of the candidates recommended for compassionate appointment is already married (Ms. Rita Parcha).

4. Considering the above factual position, *the Screening Committee recommended that the following persons, out of the 13 persons, recommended for compassionate appointment by the earlier Screening Committee in 2012, may be appointed on compassionate appointment against the existing compassionate quota vacancies in SSF in the grade of Constable*:

1. Shri Satish Kumar Tripathi S/o Late Constable S N Tripathi
2. Shri Sachin Kumar S/o Late Constable Bhagwan Singh
3. Shri Shiv Anand S/o Late Constable Surender
4. Shri Dhanesh Kumar S/o Late H/C Nathu Lal Nawaria
5. Shri Anil Kumar S/o Late Constable Suresh Kumar
6. Smt. Rita Parcha D/o Late Constable Laxman Das
7. Smt. Pushpa Devi W/o Late Constable Ashok Kumar



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8. Ms. Pinku D/o Late Constable Maharaj Singh
9. Shri Amit Kumar S/o Late Constable Surjeet Singh
10. Shri Deepak Sharma S/o Late Constable Subhash Chand Sharma
11. Shri Ashish Kumar S/o Late Constable Khanchid Singh”

(Emphasis supplied)

11. Thus, after the doors of compassionate appointment had practically been thrown open to the petitioner, there was a complete hiatus after the aforesaid minutes of the Screening Committee. Something, presumably, happened in the interregnum as, on 3 September 2019, the following communication came to be addressed to the petitioner by the MHA:

“No.I.25016/29/2018-SSO-I
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

NDCC-II, New Delhi,
Dt. 03 Sept 2019

To

Shri Shivanand,
S/o Late Shri Surender Kumar,
R/o H.No. 875, Village Bakhtawar
Pur Delhi-110036.

SUB: Request for appointment on compassionate ground – reg.

Sir,

With reference to your letter dated 01.08.2019 addressed to Hon'ble Home Secretary, it is intimated that the name of Shri Shivanand S/o Late Shri Surender Kumar was considered alongwith other candidates for appointment on compassionate ground. However, name of Shri Shivanand was not approved for



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compassionate appointment in terms of guidelines issued by DoP&T vide their O.M. No. 14014/02/2012-Estt(D) dated 16.01.2013.

Yours faithfully,

(S. Samanta)
Under Secretary to the Govt. of India
Tel. No. 2309 8052”

12. It is in these circumstances that the petitioner has approached this Court, praying that the respondent be directed to grant compassionate appointment to the petitioner.

13. We have heard Ms. Chatterjee, learned Counsel for the petitioner and Mr. Neeraj, learned SPC for the respondents at length. Apart from pointing out the aforesaid facts, Ms. Chatterjee has placed reliance on the judgments of the Supreme Court in *Syed Khadim Hussain v State of Bihar*⁴, *The Manager, AUP School v The State of Kerala*⁵ and *Malaya Nanda Sethy v State of Orissa*⁶.

14. Ms. Chatterjee particularly emphasises the fact that, in *Syed Khadim Hussain*, the Supreme Court allowed a plea of compassionate appointment by the petitioner, who was only 13 years of age at the time when he had applied on the ground that, by the time his case was taken up for consideration, he had crossed the age of 18 and could therefore be considered for appointment.

⁴ (2006) 9 SCC 195

⁵ Judgment dated 17 January 2022 in Civil Appeal 359/2022

⁶ 2022 SCC OnLine SC 684



15. Mr. Neeraj, who appears on behalf of the respondent, submits, *per contra*, that the petitioner's case could not have been considered for compassionate appointment as he was only 17 ½ of age at the time of this application. He places reliance on the judgment of the Supreme Court in *Delhi Jal Board v Nirmala Devi*⁷.

Analysis

16. Having considered the submissions of both sides, we deem it appropriate, at the outset, to reproduce paras 17 and 18 of the judgment of the Supreme Court in *Malaya Nanda Sethy*, which contain the following exordium:

“17. *We are constrained to direct as above as we have found that in several cases, applications for appointment on compassionate grounds are not attended in time and are kept pending for years together. As a result, the applicants in several cases have to approach the concerned High Courts seeking a writ of Mandamus for the consideration of their applications. Even after such a direction is issued, frivolous or vexatious reasons are given for rejecting the applications. Once again, the applicants have to challenge the order of rejection before the High Court which leads to pendency of litigation and passage of time, leaving the family of the employee who died in harness in the lurch and in financial difficulty. Further, for reasons best known to the authorities and on irrelevant considerations, applications made for compassionate appointment are rejected. After several years or are not considered at all as in the instant case.*

18. If the object and purpose of appointment on compassionate grounds as envisaged under the relevant policies or the rules have to be achieved then *it is just and necessary that such applications are considered well in time and not in a tardy way*. We have come across cases where for nearly two decades the controversy regarding the application made for compassionate appointment is not resolved. This consequently leads to the frustration of the very policy of granting compassionate appointment on the death of the

⁷ (2022) 10 SCC 696



employee while in service. We have, therefore, directed that such applications must be considered at an earliest point of time. The consideration must be fair, reasonable and based on relevant consideration. The application cannot be rejected on the basis of frivolous and for reasons extraneous to the facts of the case. Then and then only the object and purpose of appointment on compassionate grounds can be achieved.”

(Emphasis supplied)

The present case, we are constrained to observe, presents a textbook example of the malaise noticed by the Supreme Court in para 17 of *Malaya Nanda Sethy*.

17. This is a case in which, for reasons which may at best be described as recondite, the petitioner has been treated with abject indifference.

18. The petitioner’s mother submitted the application for compassionate appointment just over six months after the death of the petitioner’s father. It was therefore submitted proximate to the death of the petitioner’s father and could not be treated as belated.

19. The respondents sat on the application for six years before communicating with the petitioner on 28 December 2012, *stating that he was one of the candidates who had been recommended for appointment on compassionate basis against the 13 vacancies available in the SSF* for the said purpose which was later transferred to the CISF.

20. The further communication dated 30 August 2013 in fact called the petitioner to appear before the respondents for being selected for



appointment on compassionate grounds.

21. The petitioner appeared. He was never informed of any adverse outcome of his consideration.

22. Rather, on 15 May 2017, the MHA specifically wrote to the petitioner stating that, as the CISF had been unable to appoint the 13 candidates, it was being considered to appoint them on compassionate basis against the existing compassionate quota vacancies. The petitioner was therefore directed to submit the details of his financials. He did so. The screening committee thereafter met on 20 July 2017 and specifically found the petitioner fit for compassionate appointment and recommended his case.

23. A matter of considerable significance, which emerges from para 3 of the recommendations of the Screening Committee, extracted *supra*, is that, keeping in mind the delay that had occurred in the interregnum, the screening committee decided consciously to consider the *eligibility of the candidate as on date*. As such, as the Screening Committee was itself considering the eligibility of the candidates for compassionate appointment as on the date of consideration, the respondent cannot be heard to contend that the petitioner was ineligible for consideration, as he was only 17 ½ years of age at the time of the submission of the original application for compassionate appointment by his mother.



24. After this, we see no justifiable reason whatsoever for the respondent to have rejected the petitioner's case by the impugned order dated 3 September 2019. The order is completely unreasoned and merely makes reference to the guidelines contained in the DOPT OM dated 16 January 2013. However, the submissions of Mr. Neeraj indicate that the reason for rejection of the petitioner's case was the fact that he was six months short of the appropriate age at the time when his mother had initially applied for compassionate appointment.

25. That, in our view, cannot constitute a justifiable reason to reject the petitioner's case, for myriad reasons.

26. In the first place, as we have already noted, the Screening Committee in para 3 of its minutes dated 20 July 2017 had itself taken a decision to consider the eligibility of the candidates as on that date. In other words, keeping in mind the delay that had been occasioned at the end of the respondents themselves, as a result of which the candidates had been subjected to unnecessary prejudice, the Screening Committee had taken an expansive and magnanimous view and had decided to consider eligibility as on 20 July 2017. There is no dispute about the fact that, as on date, the petitioner was eligible and was much over 18 years of age.

27. Though, in view of the decision of the Screening Committee, the age of the petitioner at the time of original application ceases to be of relevance, nonetheless, we may note that in *Syed Khadim Hussain*, the Supreme Court specifically held that, even if at the time of application, the petitioner was only 13 years of age, he could have



been considered for compassionate appointment as he had crossed the age of 18 by the time his application was taken up. We may reproduce paras 4 and 5 of the said decision to advantage as under:

“4. We have heard the appellant's counsel and counsel for the respondent. Counsel for the appellant points out that after the death of the government servant his wife submitted an application and it was rejected without giving any reasons and the counsel for the State submits that the same must have been rejected as it was not in the prescribed format. If the applicant had not submitted the application in the prescribed format the State authorities should have asked the applicant to submit the application in the prescribed format giving out the details of the procedure. In the matters of compassionate appointments the authorities should extend the service in an effective manner so that the eligible candidate may avail the opportunity. Though the orders of rejection of the application of the appellant's mother was not challenged the appellant pursued the matter and submitted the application later. The contention of the counsel for the State is that the application filed after 5 years after the date of death of the government employee will not be considered and he further submitted that the application filed on 7-9-1995 was rightly rejected by the authorities.

5. We are unable to accept the contention of the counsel for the State. In the instant case, the widow had applied for appointment within the prescribed period and without assigning any reasons the same was rejected. *When the appellant submitted the application he was 13 years' old* and the application was rejected after a period of six years and that too without giving any reason and *the reason given by the authorities was incorrect as at the time of rejection of the application he must have crossed 18 years and he could have been very well considered for appointment.* Of course, in the rules framed by the State there is no specific provision as to what should be done in case the dependents are minors and there would be any relaxation of age in case they did not attain majority within the prescribed period for submitting application.”

(Emphasis supplied)

28. In this view of the matter, the reliance by the respondent on the decision in *Nirmala Devi* ceases to be of much relevance. Even otherwise, the controversy before the Supreme Court in *Nirmala Devi*



was with respect to a candidate who did not possess the requisite academic qualifications on the date when the application for compassionate appointment was made and had achieved the qualifications only at a later date. The reference to age in the said decision is merely by way of an aside and was not the actual issue which was before the Supreme Court.

29. We may also reproduce, in this context, the following passages from the decisions in *Manager, AUP School* and *Malaya Nanda Sethy* on which Ms. Chatterjee placed reliance:

From *Manager, AUP School*

“12. However, there is an aspect of the case which would warrant close scrutiny. The Additional Director, in his order dated 29 June 2017, directed that the sixth respondent should be appointed in the first vacancy which arose after 12 March 2014. Now, as the narration of facts indicates, the sixth respondent initially sought appointment as a Peon. Subsequently, after he had passed the engineering degree course and the Teachers’ Training course, he sought appointment for the first time on 12 March 2014 as a Lower Primary School Assistant. Evidently, the application which was submitted on 12 March 2014 cannot form the basis of compassionate appointment. Such an application, which was submitted nearly nine years after the death of the mother, could not have been entertained. *That, however, does not obviate the position that the application which was originally submitted on 14 February 2007 for appointment as a Peon was not entertained without any justifiable reasons. The application was found to be in order and the claim of the sixth respondent for appointment was duly scrutinized and confirmed both by the Sub-District Education Officer as well as by the Additional Director.* Hence, having regard to the principles which have been laid down by this Court in *Shashi Kumar*⁸ and *P Venkatesh*⁹, the claim of the sixth respondent for appointment as a Lower Primary School Assistant would have to be rejected and is accordingly rejected. However, *the claim for appointment as a Peon which was duly submitted on 14*

⁸ State of H.P. v Shashi Kumar, (2019) 3 SCC 653

⁹ Union of India v P. Venkatesh, (2019) 15 SCC 613



February 2007 shall stand upheld in terms of the two orders which have been passed by the Sub-District Education Officer and by the Additional Director.

13. We accordingly allow the appeal in part. *The claim of the sixth respondent for compassionate appointment on the basis of his application dated 14 February 2007 shall stand affirmed. However, the claim subsequently made in the application dated 12 March 2014 for appointment as a Lower Primary School Assistant shall stand rejected. Necessary steps for granting appointment to the sixth respondent shall accordingly be completed within a period of one month from the date of receipt of this order. While the sixth respondent shall be appointed immediately within a period of one month, the appointment may be adjusted as against any future vacancy that may arise. The State authorities shall accordingly process the claim for approval made by the first appellant for appointment and of all other affected teachers in terms of the present order. Necessary approvals shall be considered and decided in accordance with law afresh within a period of one month from the date of the order. However, we direct that the appointment of the sixth respondent shall take effect from the date it is issued and no arrears of salary or other monetary benefits shall be payable prior to the date of the appointment. The impugned order of the High Court shall stand modified to the above extent.*

From *Malaya Nanda Sethy*

“14. Thus, from the aforesaid, it can be seen that there was no fault and/or delay and/or negligence on the part of the appellant at all. He was fulfilling all the conditions for appointment on compassionate grounds under the 1990 Rules. *For no reason, his application was kept pending and/or no order was passed on one ground or the other. Therefore, when there was no fault and/or delay on the part of the appellant and all throughout there was a delay on the part of the department/authorities, the appellant should not be made to suffer. Not appointing the appellant under the 1990 Rules would be giving a premium to the delay and/or inaction on the part of the department/authorities. There was an absolute callousness on the part of the department/authorities. The facts are conspicuous and manifest the grave delay in entertaining the application submitted by the appellant in seeking employment which is indisputably attributable to the department/authorities. In fact, the appellant has been deprived of seeking compassionate appointment, which he was otherwise entitled to under the 1990 Rules. The appellant has become a victim of the delay and/or inaction on the part of the department/authorities which may be*



deliberate or for reasons best known to the authorities concerned. Therefore, in the peculiar facts and circumstances of the case, keeping the larger question open and aside, as observed hereinabove, we are of the opinion that the appellant herein shall not be denied appointment under the 1990 Rules.”

30. The italicized words from the extracted passages from the above decisions, particularly those in *Manager AUP School* squarely apply to the present case.

31. The facts of this case are frankly disturbing. The respondents cannot be permitted to lead the petitioner up the garden path for 12 years after his application for compassionate appointment, ensuring him, in so many words, that he was on the verge of being appointed and, when the petitioner was within kissing distance of the door, shut it in his face.

32. As to why the respondent chose to execute a *volte face* between 20 July 2017 and 3 September 2019, we do not know, and prefer not to hazard a guess, so as to extend the respondents the benefit of doubt. Decidedly, however, if this Court does not come to the assistance of the petitioner, we would be doing complete disservice to the cause of justice which, at the end of the day, is one of our preambular constitutional goals.

33. In that view of the matter, in the peculiar facts of the present case, we quash and set aside the decision to reject the petitioner’s candidature for compassionate appointment.



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34. Following the final decision in *Manager AUP School*, we direct the respondent to grant compassionate appointment to the petitioner within a period of four weeks from today.

35. The petitioner would be entitled to be treated as having been appointed along with the other candidates who were granted compassionate appointment against the 13 vacancies in the SLP. He would be entitled to continuity of service, as well as all other consequential benefits excepts for back wages, with effect from that date, along with the candidates who had been appointed against the aforesaid 13 vacancies.

36. The writ petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 13, 2025/aky