

## Jashmati Devi Vs The State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** Nov. 20, 2008

**Citation:** (2009) 1 JCR 627

**Hon'ble Judges:** D.G.R. Patnaik, J

**Bench:** Single Bench

### Judgement

@JUDGMENTTAG-ORDER

D.G.R. Patnaik, J.

The petitioner's husband Late Manbodh Baraik died in harness on 29.1.2003 while working as Kamdar in Plant

Conservation Centre, Palkot, Gumla under the respondents. Upon his death, the petitioner being his widow, applied for compassionate

appointment. The Deputy Director, Agriculture, Plant Conservation, Ranchi vide memo No. 376 dated 2.10.2004 recommended the case of the

petitioner to the Deputy Commissioner-cum- Chairman, District Compassionate Committee, Gumla,

2. When despite such representation seconded by the Deputy Director, Agriculture, Plant Conservation, Ranchi, petitioner was not given any

compassionate appointment, she moved this court vide W.P.(S) No. 2393 of 2005. By order dated 22.6.2005, this court disposed of the writ

application with a direction to the Deputy Commissioner-cum-Chairman, District Compassionate Committee, Gumla to take a decision on the

application of the petitioner for compassionate appointment as expeditiously as possible preferably within a period of two months from the date of

receipt/production of a copy of the order.

3. The petitioner thereafter submitted a copy of the order along with her representation, but by the impugned order dated 9.6.2006 (Annexure-6),

the Deputy Commissioner-cum-Chairman, District Compassionate Committee, Gumla rejected the petitioner's prayer for her compassionate

appointment on the ground that she was found to be illiterate and that, she had crossed the higher permissible age for appointment.

4. Assailing the impugned order, Shri Sunil Kumar, learned Counsel for the petitioner submits that the rejection of the petitioner's claim for

compassionate appointment on the ground of her being illiterate and on the ground of her being over age, is totally against the settled principles of

law as laid down by this court in several judgements. Learned Counsel would explain that the petitioner's claim for compassionate appointment is

based upon the scheme maintained by the State Government in respect of the Government employees under which, upon death in harness of a

Government employee, his dependent shall be given compassionate appointment. Learned Counsel explains that since the very purpose of

compassionate appointment is to offer financial support to the dependents of the deceased employee, the criteria in respect of age and educational

qualification cannot be strictly adhered to in the case of claim made by the widow of the deceased. Learned Counsel in this context, refers to and

relied upon the Judgment of this court passed in the case of Maya Devi Vs. State of Jharkhand and Others, .

5. Respondents have offered their contest by filing their counter-affidavit, wherein the stand taken by them is that the application of the petitioner

for her compassionate appointment was received on 10.11.2004 and the petitioner was asked to submit affidavit stating as to whether any

dependent of her deceased husband was in the Government service and, also to state her eligibility in terms of the criteria laid down for

appointment to the class-IV posts. While the respondent was still awaiting reply from the petitioner, instead of filing an affidavit as called upon, the

petitioner filed a writ application vide W.P.(S) No. 2393 of 2005 before this court and vide order dated 22.0.2005, this court had directed the

respondents to consider the petitioner's application for her compassionate appointment. When the petitioner filed application for her

compassionate appointment, she was asked to file an affidavit to confirm as to whether any dependent of the deceased employee was in the

Government Service, but due to non compliance of the statutory requirement, no decision on the application could be taken at the meeting of the

District Compassionate Committee held on 26.10.2005. Later, at the meeting held on 28.12.2005, the District Compassionate Committee had

referred the case of the petitioner to the Screening Committee to take the eligibility test of the petitioner. The Screening Committee had found that

the petitioner was illiterate and furthermore, she being aged 44 years had already crossed the maximum age for appointment to the class-IV posts.

It is sought to be explained that the criteria which has been fixed for appointment on the compassionate ground is that a candidate should possess a

minimum qualification of class-VIII pass and should not have crossed the age of 40 years.

6. The petitioner has filed her rejoinder to the counter-affidavit informing thereby that there is no mandatory requirement of the educational

qualification for appointment on compassionate ground and as per Government Policy decision vide Government Memo. No. 11946 dated 30lh

November 1984 which envisage that educational qualification and age can be relaxed in respect of appointment on compassionate ground of a

lady in class-IV post. Learned Counsel for the petitioner has referred to several instances where female candidates though being illiterate and did

not possess minimum educational qualification, have been granted compassionate appointment and likewise, such candidate who had crossed the

maximum age limit has also been granted compassionate appointment to class-IV post under the Government by way of relaxation in the age as

well as in qualification criteria. It is also pointed out that in the earlier policy in respect of eligibility criteria existing under the Government Rules

54(1) of the Service Code under the previous Circular dated 1.11.1993, a policy change was made and the same was notified by the State

Government vide Circular No. 8093 dated 25.7.1993 whereby Rule 54(1) of the Service Code was modified so as to permit relaxation in the

eligibility criteria in deserving cases.

7. It appears from the documents filed by the petitioner that the respondents have chosen not to even consider as to whether in the situation in

which the petitioner is placed after the sudden and unexpected demise of her husband, she should be granted the benefit of relaxation in the matter

relating to her age and educational qualification. Certainly, petitioner being the helpless lady, deserves liberal and sympathetic treatment and

necessary relaxation in respect of the qualification criteria should have been made in her favour when similar benefits have been extended to the

female dependent of other Government employees who had died in harness. From the submissions made by the petitioner, it further transpires that

on the death of her husband, she was 41 years old, as declared by her in affidavit sworn on 23.8.2005. It appears that despite the fact that the

petitioner had submitted her application for compassionate appointment way back in November 2004 soon after the death of her husband, the

respondent authority continued to linger and delay in taking the decision.

8. In the light of the above discussions, it is directed that within three months from the date of receipt of a copy of this order, the Deputy

Commissioner, Gumla (respondent No. 5) shall reconsider the petitioner's application for her compassionate appointment and the possibility of

relaxing the eligibility criteria both in respect of her age and her educational qualification and, pass appropriate orders accordingly and shall

effectively communicate the same to the petitioner.

9. With the above observations, this writ application is disposed of.

10. Let a copy of the order be given to the learned Counsel for the respondent State.