

THE HIGH COURT OF MEGHALAYA

WP(C)No.254/2014

Shri. Batchan W Momin,
S/o (L) Mecknalsen G. Momin,
R/o Waja Rongjeng,
PO & PS Rongjeng,
District: East Garo Hills,
Meghalaya.

:::: Petitioner

-Vs-

1. The State of Meghalaya, represented by the
Chief Secretary to the Govt. of Meghalaya, Shillong.
2. The Principal Secretary to the Govt. of Meghalaya,
Personnel & Administrative Reform (B) Department, Shillong.
3. The Special Superintendent of Police (SBI),
Meghalaya, Shillong.
4. The Assistant Inspector General of Police (E),
Meghalaya, Shillong.
5. The Superintendent of Police (SB-I), East Garo Hills,
Williamnagar. :::: Respondents

**BEFORE
THE HON'BLE MR JUSTICE T NANDAKUMAR SINGH**

For the Petitioner	:	Mr. AH Hazarika, Adv
For the Respondents	:	Mr. KP Bhattacharjee, GA
Date of hearing	:	24.10.2014
Date of Judgment & Order	:	24.10.2014

JUDGMENT AND ORDER(ORAL)

Heard Mr. AH Hazarika, learned counsel for the petitioner and
Mr. KP Bhattacharjee, learned GA appearing for the respondents.

2. The prayer sought for in the present writ petition is for a
direction to the respondents to consider the petitioner for appointment to any
Grade-III or Grade-IV post on compassionate ground under the Office

Memorandum i.e. die-in-harness scheme being No.PER(AR)154/78/147, dated Shillong, the 11th December, 1984. Copy of the said Office Memorandum dated 11.12.1984 is available at Annexure-VII to the writ petition and it reads as follows:-

**“GOVERNMENT OF MEGHALAYA
PERSONNEL AND ADMV REFORMS (B) DEPARTMENT**

NO.PER(AR)154/78/147 Dated Shillong, the 11th December, 1984

Office Memorandum

Subject : *Employment on compassionate ground of the son/Daughter/near relatives of the Govt. servant who dies while in service.*

The matter regarding employment on compassionate ground of the son/daughter/near relatives of the Govt. servant who dies while in service has been engaging the attention to the Government for sometime past. After careful examination, Government have decided to introduce a scheme for providing employment on compassionate ground to the next of kin who may be the wife/husband/son/daughter of a Government servant who dies while in service on the following principles :-

- 1) That employment on compassionate ground shall apply only to Class III or Class IV posts under the State Government.*
- 2) Only the wife/husband/son/daughter of the Govt. servant (thereafter called relative) who is required to support the family of the deceased will be eligible to be considered for such employment.*
- 3) The benefit of such employment will be available to only one relative.*
- 4) Employment on compassionate ground should be given only at the lowest rung of the ladder for which the applicant is educationally qualified.*
- 5) In selection the next of kin, the Head of Department may make an assessment as to who will be most satisfactory to provide succor to the family of the deceased.*
- 6) This concession will be applicable only to such cases where the concerned Government servant has put in at least 5 years continuous service against a regular post.*
- 7) There should be relaxation of age limit for recruitment upto the age of 50 years. If relaxation is required to be made even in the minimum age limit, such relaxation may be considered if it does not exceed a period of 1(one) year below the age limit prescribed in their recruitment rules for the post applied for.*

- 8) *No relaxation in educational qualification should be allowed in compassionate appointment.*
- 9) *If none of the relatives is eligible on grounds of age or educational qualification on the date of the death of the Govt. servant, an eligible relative who acquires the qualifications within 5(five years from the date of premature death of the Govt. servant may be given such employment provided that he/she is within the age limit prescribed for the post subject to relaxation mentioned in paragraph 7 above.*
- 10) *Application in the Standard Forms in the Annexure, for such employment should be made to the chief Secretary to the government of Meghalaya through the Head of Department/Office in which the Government servant was last employed. The Head of Department/Office should send the application with his remarks to the concerned Administrative Department which will refer it to the Chief Secretary. The application must be submitted within one year from the date of premature death of the Government servant or if none of the relatives is educationally qualified at the time of such death, as the case may be.*
- 11) *The appointments can be made only against such posts for which direct recruitment has been provided in the relevant recruitment rules.*
- 12) *The grant of such employment is not to be allowed as a matter of course. The financial circumstances of the family would be taken into consideration for eligibility.*
- 13) *Appointments to posts and services under this scheme shall be made by respective appointing authorities after approval of Administrative Department concerned with the approval of the Personnel and Administrative Reforms (B) Department.*
- 14) *Consultation with the Meghalaya Public Service Commission or District Selection Committee as the case may be, is not required for appointment under this scheme.*
- 15) *Employment on compassionate ground should not affect adversely the employment policy of 40:40:5 in respect of Khasi Jaintias, Garos and other Scheduled Castes/Scheduled Tribes. If the quota has been exhausted in a particular category, the appointment may be made immediately but adjusted against the next year's quota.*
- 16) *Every case of employment on compassionate ground will be considered on its own merit in the light of the principles enunciated at preceding paragraphs.*
- 17) *The appointing authorities, the Head of Department and the Administrative Departments concerned should each maintain a register in which the name, designation and date of death of the Government servant as well as the name, relationship of the applicant and the post against which he is appointed should be entered so as to facilitate verification.*

This will take immediate effect.

*Sd/- GW Chyne,
Secretary to the Govt. of Meghalaya
Personnel & Admv. Reforms (B) Department"*

3. On bare perusal of the said scheme i.e. Office Memorandum dated 11.12.1984, it is clear that the appointment on compassionate ground shall apply to Class III or Class IV posts only in the case of wife/husband/son/daughter of the Govt. servant who is required to support the family of the deceased. Question to be decided in the present writ petition in the context of the said Office Memorandum dated 11.12.1984 is if the writ petitioner is required to support the family of the deceased i.e. his father, who died on 20.05.2010 while he was in service. The petitioner's late father Mecknalsen G. Momin was serving as a Constable in the Police department and while he was in such capacity, he died on 20.05.2010. It is stated clearly in para-6 of the writ petition, additional affidavit and rejoinder affidavit dated 30.09.2014 that the petitioner's brother Shri. Hamshan Watre Momin was appointed as Armed Constable in the 5th Battalion of Meghalaya Police vide order dated 03.07.2008 and also that after his marriage, he resided with his wife at her residence. It is also further stated that during the lifetime of his father i.e. (L) Mecknalsen G Momin, his brother did not contribute any financial assistance towards the maintenance of the family of the petitioner and was not a member of the family of Late Mecknalsen G. Momin (father of the petitioner). From the above facts, it is clear that the petitioner's brother Shri. Hamshan Watre Momin had already been appointed while the petitioner's father was serving as a Constable and he resided with his wife at her residence. This fact is not denied by the contesting respondents i.e. respondent No.2 in his affidavit-in-opposition dated 24.09.2014 filed in the present writ petition.

4. The respondent No.2 in his affidavit-in-opposition stated that the case of the petitioner for appointment on compassionate ground under the said scheme had already been rejected as the petitioner's brother Shri. Shri. Hamshan Watre Momin had already been appointed as Armed Constable in the year 2008. For the sake of repetition, it is reiterated that the petitioner's father died only on 20.05.2010. It appears from the above factual matrix spelled out in the writ petition, rejoinder affidavit, affidavit-in-opposition filed by the respondent No.2 and also additional affidavit filed by the petitioner that the petitioner's brother Shri. Hamshan Watre Momin had already been appointed as Armed Constable in the year 2008 and he did not extend any financial assistance towards the maintenance of the family of the petitioner. After the death of the petitioner's father, the petitioner is required to support the family of the deceased i.e. petitioner's father which consists of:-

1. *Smti.Erallu W. Momin (wife)*
2. *Shri.Nanam W. Momin (son) 21 years of age. PU Passed.*
3. *Shri.Rikrang W. Momin (son) 18 years of age. SSLC Passed.*
4. *Shri.Sangram W.Momin (son) 15 years of age. Class X*
5. *Smt.Ware Silchi W. Momin (daughter) 10 years of age. Class V.*

It is also admitted fact of both the parties that none of the members of the petitioner's family is employed in service of the Govt. of Meghalaya or Central Govt. or Statutory Bodies or other authorities. As the petitioner is required to support the family of the deceased i.e. petitioner's father, the petitioner is eligible for consideration for appointment under the die-in-harness scheme i.e. Office Memorandum dated 11.12.1984.

5. Accordingly, this present writ petition is disposed of by directing the respondents to consider the case of the petitioner for appointment under

the die-in-harness scheme i.e. Office Memorandum dated 11.12.1984 as expeditiously as possible not later than 6 (six) months from the date of receipt of a certified copy of this judgment and order.

6. With the above observations and directions, this writ petition is allowed.

JUDGE

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