



2026:CGHC:499

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2640 of 2023

1 - Mukesh Kumar Bagchi S/o Late Shri Deepak Bagchi Aged About 28 Years R/o Village P.V. 39, Indraprasth Tahsil Pnakhanjure, District North Bastar Kanker Chhattisgarh

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Urban Administration And Development Department, Mahanadi Bhavan, Manralaya, Atal Nagar, Naya Raipur District Raipur Chhattisgarh

2 - Director Urban Adminsitration And Development Department, Mahanadi Bhavan, Mantralaya, Atal Nagar, Naya Raipur District Raipur Chhattisgarh

3 - Under Secretary, Urban Administration And Development Department Mahanadi Bhavan, Mantralaya, Atal Nagar, Naya Raipur District Raipur Chhattisgarh

4 - Joint Director Urban Administration And Development Department, Bastar Division, Jagdalpur, District Bastar Chhattisgarh

5 - Nagar Panchayat Pakhanjur Through The Chief Municipal Officer, District North Bastar, Kanker Chhattisgarh

6 - President In Council Through The President Nagar Panchayat, Pankhanjur District North Bastar Kanker Chhattisgarh

... Respondent(s)

(Cause-title is taken from Case Information System)

For Petitioner : Mr. Prateek Sharma, Advocate

For State : Mr. Hariom Rai, Panel Lawyer

For Resp. No. 5 & 6 : Mr. Ghanshyam Patel, Advocate

SB- Hon'ble Shri Justice Amitendra Kishore Prasad

Order on Board

05/01/2026

1. The petitioner has filed this writ petition seeking following reliefs :-

“10.1 That, this Hon'ble Court may kindly be pleased to call for entire records pertaining to the case of the petitioner.

10.2 That this Hon'ble Court may kindly be pleased to set aside the impugned orders dated 02.03.2023 & 31.03.2023 & resolution dated 30.03.23 (ANNEXURE P/1, P/10 & P/11) with all consequential benefits, in the interest of justice.

10.3 That, any other relief/order which may deem fit and just in the facts and circumstances of the case, including cost of the petition may kindly be awarded to the petitioner.”

2. Facts of the case, in a nutshell, are that the father of the petitioner, Late Shri Deepak Bagchi, was a regular employee of Nagar Panchayat Pakhanjur working as Assistant Revenue Inspector and expired in harness on 20.11.2017. After his death, the petitioner applied for compassionate appointment, disclosing that he was only a 10th pass at the relevant time and requesting appointment on any suitable post as per his qualification, with liberty to acquire higher qualification if required. Initially, as no suitable post was available, the President-in-Council of the Nagar Panchayat, in its meeting dated 27.08.2018, resolved to appoint the petitioner on the post of Driver by creating a supernumerary

post, and the proposal was forwarded to the competent authority, though no action followed. Subsequently, in view of the General Administration Department circular dated 14.06.2013, the President-in-Council unanimously resolved on 04.02.2019 and again on 15.07.2019 to grant compassionate appointment to the petitioner on the post of Safai Daroga, subject to the condition that he would acquire the requisite 12th pass qualification within the prescribed period. Ultimately, by order dated 20.09.2019, the petitioner was appointed on the post of Safai Daroga with the condition to obtain the minimum educational qualification within two years, which he duly fulfilled by passing the 12th examination in the year 2020. During his service, the petitioner was also appreciated for his sincere work and was awarded a citation on Republic Day in 2022. However, on the basis of a departmental enquiry conducted against the then Chief Municipal Officer in the year 2022, and without affording any opportunity of hearing to the petitioner, an order dated 02.03.2023 was passed directing cancellation of the petitioner's compassionate appointment on the ground that the same was not in accordance with law. Thereafter, based on the said order and a resolution dated 30.03.2023 of the President-in-Council, the compassionate appointment of the petitioner was cancelled by order dated 31.03.2023. Aggrieved by the said action, the petitioner, who has neither misrepresented facts nor demanded any particular post and who has been serving for more than three and a half years while maintaining his

dependent family members, has approached this Court challenging the impugned orders.

3. Learned counsel for the petitioner submits that the impugned orders dated 02.03.2023 and 31.03.2023 as well as the resolution dated 30.03.2023 are wholly illegal, arbitrary, unreasonable, discriminatory and unjust, and are therefore violative of Articles 14 and 21 of the Constitution of India. It is contended that the father of the petitioner, who was a regular employee of Nagar Panchayat Pakhanjur working on the post of Assistant Revenue Inspector, expired in harness on 20.11.2017, leaving behind his widow and three sons, thereby plunging the family into acute financial hardship. In such circumstances, the petitioner applied for compassionate appointment by candidly disclosing that he was only a 10th pass at the relevant time and requested appointment on any suitable post as per his qualification, with a further undertaking to acquire higher qualification if so required. It is further submitted that since no post commensurate with the petitioner's qualification was initially available, the President-in-Council of the Nagar Panchayat, in its meeting dated 27.08.2018, resolved to grant appointment to the petitioner on the post of Driver by creating a supernumerary post, which proposal was duly forwarded by the Chief Municipal Officer to the competent authority, though no action was taken thereon. Thereafter, considering the facts and circumstances of the case and in view of the General Administration Department circular dated

14.06.2013, the President-in-Council unanimously resolved to grant compassionate appointment to the petitioner on the post of Safai Daroga, subject to the condition that he would acquire the requisite 12th pass qualification within the prescribed period. Learned counsel points out that the respondent Joint Director, vide letter dated 28.06.2019, clarified that as per the said circular, the authority competent to make regular appointments to Class-III and Class-IV posts was also competent to grant compassionate appointment, thereby affirming the legality of the decision taken by the Nagar Panchayat. It is also urged that once again, in its meeting dated 15.07.2019, the President-in-Council reaffirmed its decision to appoint the petitioner on the post of Safai Daroga subject to fulfillment of the educational qualification of 12th standard within two years, and pursuant thereto, the petitioner was issued an appointment order dated 20.09.2019. In strict compliance with the terms of appointment, the petitioner passed the 12th examination in the year 2020 itself, thus fully satisfying the condition imposed, and thereafter continued to discharge his duties sincerely and diligently, for which he was even honoured with a Citation (Prashasti Patra) on the occasion of Republic Day in the year 2022. Learned counsel vehemently argues that the subsequent action of the respondents in directing cancellation of the petitioner's compassionate appointment is patently illegal, as the impugned order dated 02.03.2023 was passed solely on the basis of a departmental enquiry conducted against the then Chief

Municipal Officer, without affording any opportunity of hearing to the petitioner. It is submitted that no fault whatsoever is attributable to the petitioner, who neither misrepresented facts nor demanded appointment on any particular post, and merely accepted the appointment granted to him by the competent authorities after due deliberation. Moreover, the petitioner had already acquired the minimum educational qualification prescribed for the post of Safai Daroga within the stipulated time, and therefore the cancellation of his appointment is wholly unjustified. It is further submitted that the very foundation of the impugned action has ceased to exist, inasmuch as the departmental enquiry and consequential proceedings against the Chief Municipal Officer, which formed the sole basis for the impugned order, have already been quashed by this Court and the same has been affirmed by the Division Bench in Writ Appeal No. 256/2025. Despite this, without any independent application of mind and merely under the influence of the earlier order dated 02.03.2023, the respondent authorities passed the subsequent order dated 31.03.2023 pursuant to the resolution dated 30.03.2023, cancelling the petitioner's compassionate appointment, compelling the petitioner to withdraw his earlier writ petition with liberty to file a fresh one. Lastly, learned counsel for the petitioner submits that the petitioner has been continuously working for several years and his entire family, including his mother, wife and minor child, is wholly dependent upon him for their livelihood.

Placing reliance upon the judgments of the Hon'ble Supreme Court reported in **(2016) 12 SCC 342** and the decision of this Court in **WPS No. 102/2016**, it is contended that where an appointment has been made after due consideration by the competent authority, without any fraud or suppression on the part of the appointee, the same cannot be cancelled after a long lapse of time, especially when the employee has fulfilled all the prescribed conditions. Therefore, it is prayed that the impugned orders and resolution be quashed and appropriate relief be granted in favour of the petitioner.

4. Learned State counsel submits that the present writ petition has been filed by the petitioner challenging the impugned order dated 31.03.2023 issued by the respondent No. 5/Chief Municipal Officer, Nagar Panchayat Pakhanjur, whereby the services of the petitioner have been terminated. It is contended that the writ petition, as framed and filed, is wholly misconceived, devoid of substance and does not disclose any infringement of a legal or fundamental right so as to warrant interference by this Court in exercise of its extraordinary writ jurisdiction, and therefore deserves to be dismissed at the threshold. Learned State counsel further submits that all the adverse allegations levelled by the petitioner against the respondents are categorically denied. It is argued that it is a settled principle of law that a person invoking the extraordinary jurisdiction of this Court under Article 226 must approach the Court with clean hands, full disclosure of material

facts and without any suppression or misrepresentation. According to the State, the petitioner has deliberately concealed material facts and has not placed all relevant documents on record with an intention to mislead the Court, and on this ground alone, the petition is liable to be dismissed. It is also contended that the grievance raised by the petitioner is entirely misplaced and no cause has been made out for exercise of discretion by this Court. Learned counsel submits that the petitioner has not disclosed complete particulars of the case and has failed to demonstrate any arbitrariness, illegality or procedural impropriety on the part of the State authorities. On the contrary, the proceedings in question were conducted strictly in accordance with law, following due procedure, and after affording sufficient opportunity of hearing to the petitioner. Learned State counsel further submits that adequate opportunity was granted to the petitioner to lead evidence and to place relevant material on record. Despite being given such opportunities, the petitioner neither led any evidence nor filed any application seeking permission to examine or cross-examine any witness. Therefore, the allegation of violation of principles of natural justice is wholly unfounded and cannot be attributed to the answering respondents. It is submitted that the entire process was fair, transparent and in consonance with the applicable Acts and Rules, and no material has been placed on record by the petitioner to show any irregularity or procedural lapse. It is also

argued that the impugned proceedings, including issuance of the show cause notice and consequential action, were undertaken by the competent authority after due consideration of the material available on record and in accordance with the statutory provisions. Hence, there is no infirmity or illegality in the action of the State authorities. Lastly, learned State counsel submits that a bare perusal of the pleadings and the reliefs sought would clearly demonstrate that no specific allegation has been levelled against the respondents/State, nor has any order passed by them been directly challenged in the present writ petition. It is contended that no relief has been claimed against the State authorities and that the main contesting party is respondent No. 5/Nagar Panchayat. In such circumstances, the respondents are merely formal parties, and the writ petition, insofar as it relates to them, is not maintainable. On all these grounds, learned State counsel prays that the writ petition be dismissed so far as the answering respondents/State are concerned.

5. Learned counsel appearing for respondents No. 5 and 6 submits that the factual position is largely undisputed to the extent that the father of the petitioner, Late Shri Deepak Bagchi, was working as an Assistant Revenue Inspector in Nagar Panchayat Pakhanjur and died in harness on 20.11.2017, whereafter the petitioner applied for compassionate appointment as a dependent of the deceased employee. It is contended that at the time of submission of the application for compassionate appointment, the petitioner

was admittedly only a 10th pass and did not possess the minimum educational qualification prescribed for the post of Safai Daroga, which is Class 12th pass. Learned counsel submits that although initially a proposal was made for creation of a supernumerary post of Driver, the same did not fructify, and thereafter, contrary to the statutory rules and governing circulars, the then Chief Municipal Officer processed the claim of the petitioner for appointment on the post of Safai Daroga by granting him two years' time to acquire the requisite qualification, despite there being no provision in law permitting grant of such relaxation or post-appointment acquisition of minimum eligibility. It is further submitted that the appointment of the petitioner dated 20.09.2019 on the post of Safai Daroga was *ex facie dehors* the rules, as the petitioner did not fulfil the essential eligibility criteria on the date of appointment. Learned counsel contends that the subsequent approval by the President-in-Council could not cure the inherent illegality in the appointment, since neither the Rules nor the circulars governing compassionate appointment contemplate appointment subject to acquisition of minimum educational qualification at a later stage. Compassionate appointment, being an exception to the general rule of recruitment, has to be strictly in accordance with the scheme and cannot be extended by equity or sympathetic considerations. Learned counsel further submits that a departmental enquiry was initiated against the then Chief Municipal Officer, Nagar Panchayat Pakhanjur, namely Shri

Rajesh Tiwari, for granting compassionate appointment to the petitioner in violation of the applicable rules. After issuance of charge-sheet and conducting a detailed enquiry, in which full opportunity of hearing was afforded to the delinquent officer, the charges were found proved, and it was conclusively established that the petitioner's appointment was granted contrary to law and without requisite qualification. On the basis of the said enquiry report, the Under Secretary, Department of Urban Administration and Development, Government of Chhattisgarh, by order dated 02.03.2023, directed cancellation of the petitioner's appointment, holding that granting time to acquire the minimum qualification was impermissible under the Rules. In compliance thereof, and after obtaining approval of the President-in-Council, the Chief Municipal Officer passed the impugned order dated 31.03.2023 cancelling the petitioner's appointment. It is argued that the plea of violation of principles of natural justice raised by the petitioner is misconceived, as the petitioner admittedly did not possess the minimum educational qualification on the date of appointment, which is an admitted and indisputable fact. In such circumstances, grant of opportunity of hearing would be a mere empty or useless formality, as no amount of hearing could alter the legal position. Learned counsel places reliance on the judgments of the Hon'ble Supreme Court in **Canara Bank v. V.K. Awasthy [(2005) 6 SCC 321]**, **Aligarh Muslim University v. Mansoor Ali Khan [(2000) 7 SCC 529]**, and **Ashok Kumar Sonkar v. Union of India [(2007)**

4 SCC 54], to contend that where only one conclusion is possible on admitted facts, non-grant of hearing does not vitiate the action. Learned counsel further submits that an appointment made in contravention of statutory rules is void ab initio and confers no enforceable right upon the appointee. Drawing analogy from the principles laid down by the Hon'ble Supreme Court in cases relating to void appointments, it is argued that once the very foundation of the petitioner's appointment is found to be illegal, the petitioner cannot claim protection of service jurisprudence or invoke equitable considerations. Compassionate appointment cannot be used as a mode to bypass eligibility conditions prescribed under the Rules. Lastly, learned counsel submits that the impugned action has been taken strictly in accordance with law, pursuant to directions issued by the competent authority of the State Government, and after due approval of the President-in-Council. The writ petition, therefore, being devoid of merit and substance, is liable to be dismissed, and respondents No. 5 and 6 pray for dismissal of the petition.

6. I have heard learned counsel for the parties and have also perused the documents enclosed along with the petition.
7. Upon thoughtful consideration of the pleadings, documents placed on record, and the submissions advanced by learned counsel for the respective parties, this Court finds that the foundational facts are largely undisputed. It is an admitted position that the father of the petitioner, Late Shri Deepak Bagchi, was a regular employee

of Nagar Panchayat Pakhanjur and died in harness on 20.11.2017, leaving behind his family in financial distress. It is also not in dispute that the petitioner applied for compassionate appointment by candidly disclosing his educational qualification as 10th pass and without insisting upon appointment to any particular post. The record further reveals that the competent authority, i.e. the President-in-Council of the Nagar Panchayat, after due deliberation and taking into account the prevailing circular dated 14.06.2013, resolved to grant compassionate appointment to the petitioner on the post of Safai Daroga subject to the condition of acquiring the minimum educational qualification of 12th standard within the stipulated period.

8. This Court finds significant force in the submission of learned counsel for the petitioner that the appointment order dated 20.09.2019 was issued pursuant to repeated resolutions of the President-in-Council, which was competent to take such a decision. The petitioner neither suppressed any fact nor practised any fraud; rather, he accepted the appointment granted to him by the authorities in good faith. In strict compliance with the condition imposed in the appointment order, the petitioner acquired the requisite educational qualification by passing the 12th examination in the year 2020, well within the prescribed time. Thereafter, he continued to discharge his duties uninterruptedly for several years, and the record reflects that his work was found satisfactory,

for which he was also awarded a citation on Republic Day in 2022.

9. The impugned order dated 02.03.2023 directing cancellation of the petitioner's appointment and the consequential order dated 31.03.2023, based upon the resolution dated 30.03.2023, are found to be vitiated on more than one count. Firstly, the said orders have been passed without affording any opportunity of hearing to the petitioner, even though the orders visit him with serious civil consequences. The petitioner was not at fault in any manner, and the alleged illegality pertained, if at all, to the administrative decision taken by the authorities at the relevant time. Secondly, the very basis of the impugned action, namely the departmental enquiry conducted against the then Chief Municipal Officer, has admittedly been set aside by this Court and the same has been affirmed by the Division Bench.
10. Once the foundation itself has been knocked out, the consequential action taken against the petitioner cannot be sustained in law. This Court is also conscious of the settled principle that compassionate appointment is an exception to the general rule of recruitment and must ordinarily conform to the governing scheme. However, the facts of the present case disclose a peculiar and equitable situation. The petitioner has already fulfilled the eligibility condition, has served for a considerable period, and has structured his and his family's life around the said employment. Importantly, it has been brought to

the notice of this Court that the petitioner is posted and working in a hardcore Naxalite-affected area, which further demonstrates the bona fides of the petitioner as well as the public interest involved.

To unsettle his service at this stage, despite his compliance with all conditions and absence of any fault on his part, would result in grave injustice and defeat the very object of compassionate appointment.

11. In view of the totality of facts and circumstances, this Court is of the considered opinion that the impugned orders are arbitrary, disproportionate and unsustainable in law. The equities of the case clearly tilt in favour of the petitioner, and the respondents were not justified in cancelling the compassionate appointment after a long lapse of time, particularly when the petitioner has already acquired the requisite qualification and continues to serve in a sensitive and difficult area.
12. Accordingly, considering the facts and circumstances of the case, in particular that the petitioner is still working on the said post, has since cleared the requisite educational qualification, and is posted in a hardcore Naxalite-affected area, this writ petition deserves to be and is hereby **allowed**.
13. The impugned order dated 02.03.2023, the resolution dated 30.03.2023, and the consequential order dated 31.03.2023 are hereby quashed and set aside. The respondents are directed to treat the petitioner's appointment on the post of Safai Daroga as valid and continuing, with all consequential service benefits. It is,

however, made clear that this relief is being granted in the peculiar facts and circumstances of the present case and shall not be treated as a precedent in other cases.

No order as to costs.

Sd/-

(Amitendra Kishore Prasad)

Shayna

JUDGE