

**STATE OF U.P. v. AISHWARYA PANDEY, (2022-1)205
PLR 374 (SC) , 2022 PLRonline 8553**

SUPREME COURT OF INDIA

Before: Justice M.R. Shah and Justice B.V. Nagarathna.

STATE OF U.P. & anr. – Petitioners

versus

AISHWARYA PANDEY – Respondent

Special Leave to Appeal (C) No(s). 19255 of 2021

**Constitution of India, Article 309 – Appointment on compassionate ground –
There cannot be two different pay-scales for the employee appointed on
compassionate ground and the employee appointed on regular basis – Service
Matter.**

Held, It is the State which has appointed the respondent on compassionate ground on the post of Officer on Special Duty. Not open for the State to contend that the respondent could not have been appointed on compassionate ground on the post of Officer on Special Duty as the same was required to be filled by the Public Service Commission. The moment a person is appointed on a particular post, that person is entitled to the pay-scale of the very post, even if the appointment is on compassionate ground.

[Para 2-3]

Mr. S R Singh, Sr. Adv. Mr. Adarsh Upadhyay, AOR

ORDER

(03.12.2021) – It is not in dispute that the respondent was appointed on the post of Officer on Special Duty, maybe on compassionate ground. However, she was placed in the pay-scale of Rs.6500-10,500/- which was lower than the pay-scale required to be paid to Officer on Special Duty.

1.1 The respondent herein, filed the writ petition before the High Court. The High Court allowed the said writ petition directing the petitioners to pay Rs.8000-13,500/- pay-scale, which pay-scale was available for the post of Officer on Special Duty.

2. Learned senior counsel appearing for the petitioners submits that as such the respondent was appointed on supernumerary post and even she could not have been appointed on the post of Officer on Special Duty on compassionate appointment as the said post was required to be filled by the Public Service Commission.

The aforesaid submission has no substance at all. Once a person is appointed on a particular post, maybe on compassionate ground, that person is entitled to the pay-scale of the same post.

2.1 Learned counsel for the State submits that the respondent could not have been appointed as Officer on Special Duty as the same was required to be filled by the Public Service Commission.

3. It is the petitioner – State which appointed the respondent on compassionate ground on the post of Officer on Special Duty. Thereafter, it is not open for the State to contend that the respondent could not have been appointed on compassionate ground on the post of Officer on Special Duty as the same was required to be filled by the Public Service Commission. There cannot be two different pay-scales for the employee appointed on compassionate ground and the employee appointed on regular basis. The moment a person is appointed on a particular post, that person is entitled to the pay-scale of the very post, even if the appointment is on compassionate ground. At this stage, it is required to be noted that even in the case of similarly situated employees, the similar benefit was granted.

4. In view of the above, there is no substance in the present special leave petition and the same deserves to be dismissed and is, accordingly, dismissed.

5. At the request of learned counsel appearing for the petitioners, we grant further two weeks time from today to the State to implement the judgment and order passed by the High Court.

Pending applications stand disposed of.

Petition dismissed.

Ss

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