

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA**

**ON THE 24<sup>th</sup> OF APRIL, 2024**

**WRIT PETITION No. 8419 of 2024**

**BETWEEN:-**

**SHRI AMIT KUMAR SAHU S/O LATE SHRI  
JAGDISH SAHU, AGED ABOUT 32 YEARS,  
OCCUPATION: NIL R/O HOUSE NOUMBER G 4  
BLOK C NEAR TO MANET CHORAHA RAHUL  
NAGAR KOLAR ROAD BHOPAL (MADHYA  
PRADESH)**

**.....PETITIONER**

***(BY SHRI P. N. DAS – ADVOCATE)***

**AND**

- 1. THE STATE OF MADHYA PRADESH  
THROUGH ITS PRINCIPAL SECRETARY  
DEPARTMENT OF SCHOOL EDUCATION  
VALLABH BHAWAN MANTRALAYA  
BHOPAL (MADHYA PRADESH)**
- 2. DISTRICT COMMANDANT HOME GUARD  
AND CIVIL DEFENCE AND DISASTER  
MANAGEMENT BHOPAL DISTRICT  
BHOPAL (MADHYA PRADESH)**
- 3. DIRECTOR GEERAL HOME GUARD AND  
CIVIL DEFENCE AND DISASTER  
MANAGEMENT JABALPUR DISTRICT  
JABALPUR (MADHYA PRADESH)**
- 4. DIRECTOR GENERAL HOME GUARD AND  
CIVIL DEFENCE AND DISASTER  
MANAGEMENT BHOPAL DISTRICT  
BHOPAL (MADHYA PRADESH)**

**.....RESPONDENTS**

***(BY SHRI SWAPNIL GANGULY- DY. ADVOCATE GENERAL)***

---

*This petition coming on for admission this day, the court passed the following:*

**ORDER**

1. With consent of the parties, this petition is heard finally.
2. This petition under Article 226 of the Constitution of India has been filed seeking the following reliefs :-
  - (i) That, this Honorable High Court may kindly be pleased to issue a writ in the nature of Mandamus for directing the respondent authorities to consider the case of the petitioner submitted by Annexure-P/5 dated 4.3.2024 and grant him opportunity to clear the exam for class 10<sup>th</sup> in the interest of justice.
  - (ii) Any writ order or direction may kindly be issued which is in the interest of justice.
3. It is submitted by counsel for the petitioner that petitioner was appointed on compassionate ground on account of death of his father late Shri Jagdish Sahu. The petitioner has not filed copy of the appointment order.
4. Be that whatever it may be.
5. A show cause notice was issued to the petitioner on 23.1.2024 mentioning therein that petitioner was given appointment on compassionate ground by order dated 5.12.2011 with a condition that he will have to pass examination of 10th Board within a period of six years from the date of joining, failing which, he shall be relieved from service. However, he has not produced the mark sheet of class 10<sup>th</sup> so far. Accordingly, he was directed to appear before the District Commandant of Home Guard (mentioned as District District below the signature) to apprise the situation, failing which, necessary action shall be taken against him. Thereafter, another show cause notice was issued

on 5.2.2024 mentioning that he did not appear before the District Commandant and accordingly, he was directed to produce the mark sheet of class 10<sup>th</sup> within a period of two days, failing which, action shall be taken against him. On 4.3.2024 petitioner made an application that some more time may be granted to pass class 10<sup>th</sup> examination. He had also mentioned that earlier he had appeared in the examination but he could not succeed. However, by the impugned order date 7.3.2024 it is submitted that he has been relieved from service.

6. Challenging the order passed by the District Commandant, Home Guard, Bhopal it is submitted that since the petitioner was given appointment on compassionate ground, therefore, he should have been given one more opportunity to pass class 10<sup>th</sup> examination. It is further submitted that even otherwise petitioner is ready to work on a lower post, for which, educational qualification may be class 9<sup>th</sup> examination.
7. Per contra, the petition is vehemently opposed by counsel for the State. It is submitted that in the year 2011 petitioner was given appointment on compassionate ground with a specific rider / condition that he has to pass class 10<sup>th</sup> examination within a period of 6 years. However, in spite of the fact that more than 14 years have passed, he has failed to pass class 10<sup>th</sup> examination; therefore, the authorities were left with no other option but to relieve him from service.
8. Heard learned counsel for the parties.
9. Petitioner has not challenged the order dated 7.3.2024, by which, he was relieved from his services. He has simply sought a direction that the respondents may be directed to consider the request of the petitioner to grant some more time to pass class 10<sup>th</sup> examination. Once the petitioner has already been relieved from services, prayer made by

the petitioner cannot be considered. However, this Court cannot lose sight of the fact that the petitioner was granted appointment on compassionate ground. Therefore, in order to do complete justice, this petition is disposed of with the following directions :-

If the petitioner makes an application thereby giving his consent to serve department on a lower post, for which, class 9<sup>th</sup> is minimum qualification, then the said application shall be considered sympathetically by the respondents by considering the fact that he was given appointment on compassionate ground.

10. Needless to mention here that this liberty granted to the petitioner should not be construed as a direction to give him appointment and the application shall be considered in accordance with law.
11. With aforesaid observation, petition is **finally disposed of**.

**(G.S. AHLUWALIA)**  
**JUDGE**

JP