



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.5422 of 2020 a/w
CWPOA No.6225 of 2020
Reserved on: 09.07.2025
Date of Decision: 21. 07.2025

1.

CWPOA No.5422 of 2020

Jogindra

...Petitioner
- Versus
- State of H.P. & others

...Respondents
2.
- CWPOA No.6225 of 2020

Mano Devi
- ...Petitioner
- Versus
- State of H.P. & others

...Respondents

Coram
Hon'ble Mr. Justice Satyen Vaidya, Judge
Whether approved for reporting? Yes

For the petitioners:

Mr. Amrick Singh, Advocate.

For the respondents:

Mr. Hemant K. Verma, Deputy Advocate General.

Satyen Vaidya, Judge

Both these petitions were heard together and are being decided by a common judgment as common questions of facts and law are involved.

2. The petitioners in both the petitions are claiming appointment under 'Employment Assistance Scheme to the

dependents of Government Servants' (for convenience, "Compassionate Appointment Scheme").

3. The case of the petitioners is that their respective husbands were Home Guards (Volunteer) engaged under the provisions of Himachal Pradesh Home Guards Act, 1968. During continuance of their engagement, they had died.

4. The petitioners approached the respondent authorities for appointment under Compassionate Appointment Scheme of the State Government, but their claims were rejected on the ground that the benefit of Compassionate Appointment Scheme was not available to the Home Guards or their families as the Home Guards were neither in the permanent employment nor could they be termed as Government servants.

5. I have heard learned counsel for the parties and have gone through the record carefully.

6. Learned counsel for the petitioners would contend that the Himachal Pradesh Home Guards Act, 1968 and the 1971 Rules framed thereunder do not exclude the operation of Compassionate Appointment Scheme to the Home Guards or their dependents. He would further contend that the Compassionate Appointment Scheme also does not exclude its applicability to the Home Guards.

7. Reliance has been placed on the judgment passed by Hon'ble Jharkhand High Court on 19.05.2006, in Case No: **WPS No.1390 of 2006**, titled **Chanda Devi vs. The State of Jharkhand and others** to assert that in similar circumstances, while interpreting the provisions of Bihar Home Guards Act, the dependents of Home Guards have been held entitled to the benefit of Compassionate Appointment Scheme.

8. On the other hand, learned Deputy Advocate General would submit that the appointment of Home Guards is not on regular basis. They are paid only temporary allowance during the period when they are called upon to discharge the duties. No salary or wages are paid to them. He placed reliance on a judgment passed by Hon'ble Supreme Court in **Grah Rakshak, Home Guards Welfare Association vs. State of Himachal Pradesh & others, (2015) 6 SCC 247**, wherein the claim of Home Guards for regularization of their services was declined.

9. The nature of employment of Home Guards under Himachal Pradesh Home Guards Act has been considered by Hon'ble Supreme Court in *Grah Rakshak, Home Guards Welfare Association (supra)* in following terms:

“33. In the cases before us though some of the Home Guards (Grah Rakshak) produced their appointment letters to show that they are serving as Platoon Havaladar for 10 to 28

years, we find that they have been enrolled and there is no appointment on regular basis. They have never been paid salary/wages and there is no provision to make any payment of salary/wages other than the duty allowance and other allowances.

34. In the Form filled up by the Home Guards volunteers of each State, the Home Guards have specifically mentioned that they undertake to serve as a member of the Home Guards at any time and place in India if they are called out for training or duty. This is evident from [Form I of Himachal Pradesh Home Guards Act, 1968](#) which shows that they are entitled for temporary allowance and in case of injury sustained or disability occurred during the duty they are entitled for disability pension.

35. Similar is the case of Bombay Home Guards, who have been appointed as volunteers Home Guards under the Act. They also have given declaration that they have volunteered as a member of the Home Guard.

36. The Home Guards of N.C.T. of Delhi also have been appointed to the organization which is volunteer body under the Act. Provision discussed above makes it clear that Chief Commissioner of Delhi only engage volunteers in the Home Guards. The Home Guards being volunteer body in the N.C.T. of Delhi, the appellants-Home Guards of Delhi cannot be claimed to be regular appointees.

37. It is not the case of the State Government that enrollment/appointments of the Home Guards were backdoor engagement and illegal made in violation of [Articles 14](#) and [16](#) of the Constitution of India. Therefore, the decision of this Court in *Umadevi* (3) is not applicable in the case of the appellants-Home Guards. Admittedly, there is no concept of wages. These volunteers are paid duty allowance and other allowances to which they are entitled. There is nothing on the record to suggest that they performed duties throughout the year.

38. On the other hand, it is the specific case of the State that as and when there is requirement they were called for duty and otherwise, they remained in their homes. Therefore, in absence of any details about continuity of service, month to month basis or year to year basis, the duties and responsibilities performed by them throughout the year can neither be equated with that of police personnel.

39. In view of the discussion made above, no relief can be granted to the appellants either regularization of services or grant of regular appointments hence no interference is called for against the judgments passed by the Himachal Pradesh, Punjab and Delhi High Courts. However, taking into consideration the fact that Home Guards are used during the emergency and for other purposes and at the time of their duty they are empowered with the

power of police personnel, we are of the view that the State Government should pay them the duty allowance at such rates, total of which 30 days (a month) comes to minimum of the pay to which the police personnel of State are entitled. It is expected that the State Governments shall pass appropriate orders in terms of aforesaid observation on an early date preferably within three months."

10. The aforesaid observations were made by Hon'ble Supreme Court while adjudicating upon the issue whether the Home Guards were entitled for regularization of their services? Hon'ble Supreme Court has answered the issue in negative for the reasons, as noticed above.

11. Thus, when the job performed by Home Guards has been assessed to be purely of temporary nature, it will not be prudent to hold their dependents entitled to benefit under Compassionate Appointment Scheme. The dependents of a Home Guard cannot raise claim for permanent job, when the Home Guard himself renders only a voluntary and temporary job. The dependents of Home Guard cannot claim right to any Government service having larger scope than the nature of job held by the Home Guard.

12. The Home Guard is called upon to discharge duties as and when need arises. A Home Guard is not on permanent

rolls. The appointments are not on regular basis. They are not paid salary or wages, rather only duty allowance is paid to them in terms of duties discharged.

13. The petitioners cannot even derive benefit from the judgment passed by Hon'ble Jharkhand High Court in *Chanda Devi (supra)* for the reason that the facts in said case were different. In *Chanda Devi (supra)*, the Home Guard was killed while on patrolling duty and he was held at par with the facts of another case titled *Gayatri Devi vs. State of Jharkhand decided by Hon'ble Jharkhand High Court*, wherein the Home Guard was killed in an encounter with the extremists. Thus, in *Chanda Devi (supra)*, it has not been decided as a principle that the dependents of home guard are entitled to the benefit of Compassionate Appointment Scheme.

14. In result the petitions are dismissed being devoid of any merits.

15. The petitions are accordingly disposed of along with pending application(s), if any.

(Satyen Vaidya)
Judge

21st July, 2025
(vt)