



IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
CIRCUIT BENCH AT PORT BLAIR

PRESENT: HON'BLE JUSTICE SUGATO MAJUMDAR
AND
HON'BLE JUSTICE OM NARAYAN RAI

WPCT/28/2026

SMT. V.DHANA LAXMI AND OTHERS **... PETITIONERS**

Versus

THE UNION OF INDIA AND OTHERS **... RESPONDENTS**

For the Petitioners : Mr. Gopala Binnu Kumar

For the respondents : Mr. Rakesh Kumar

Hearing concluded on : 08.07.2026

Judgment on : 10.07.2026

OM NARAYAN RAI, J.

1. This writ petition under Article 226 of the Constitution of India is directed against an order dated June 12, 2026 passed by the Central Administrative Tribunal, Kolkata (Circuit Bench sitting at Port Blair)¹ in OA 351/843/2026². By the said order the Tribunal has dismissed the said OA filed by the petitioners relying on its earlier order dated May 21, 2026 passed in OA 351/712/2026 wherein the Tribunal had held that since appointment on compassionate grounds was an

¹ Hereafter "the Tribunal"

² Hereafter "OA"



individual matter therefore multiple applicants could not have joined together in a single application.

2. The case run in the writ petition may be briefly recounted:
 - a. The petitioners are all aspirants for compassionate appointments. Their respective fathers used to work as *Work Charged Beldars* under various divisions of Andaman Public Works department who died while in harness.
 - b. As some of them were minors when their respective fathers died therefore their cases for compassionate appointment were considered later – i.e. when they attained majority.
 - c. Upon the death of the respective bread winners of their families, they made applications for appointment on compassionate grounds but such applications remained unattended.
 - d. Following the catastrophic Tsunami on December 26, 2004 while several persons were appointed on compassionate grounds the petitioners' cases were left unconsidered.
 - e. Thereafter the respondents called upon the petitioners to submit the relevant documents in support of their request for compassionate appointment. The petitioners did so.
 - f. Subsequently, in 2018 an advertisement was published in the newspaper inviting applications with relevant documents from eligible candidates for appointment on compassionate grounds. The petitioners applied in terms of the said advertisement but nothing happened.



- g. Then in 2024, there was yet another advertisement calling upon the candidates who had applied for compassionate appointment to submit their income certificates. The petitioners accordingly submitted such certificates.
- h. Yet again on November 21, 2025, another paper publication captioned “Press Note” was made thereby notifying that the respondent No.5 was in the process of filling up the posts of Group C employees by appointing eligible candidates on compassionate grounds and that the relevant department had received 258 applications from the heirs of the deceased government servants. The said Press Note dated November 21, 2025 contained a provisional list of candidates ³ eligible for compassionate appointment and it indicated that the candidature of the candidates for compassionate appointment in respect of 28 vacant Group C posts had been considered in terms of the Office Memorandum dated June 17, 2022⁴. The names of the petitioners also featured at different places in the said list.
- i. Although, the said provisional list mentioned that the same had been prepared on the basis of merit (i.e. in accordance with the OM) but the petitioners found that the same was actually not so as the OM had not been followed.

³ Hereafter “provisional list”

⁴ Hereafter “OM”



- j. Being aggrieved by the said provisional list, the petitioners approached this Court by filing a writ petition being WPA/62/2026 since at the relevant point of time, the Tribunal was not functional.
 - k. The writ petition was initially entertained by this Court and while calling for affidavits, it was directed that any action taken by the respondents would abide by the result of the writ petition.
 - l. However, during pendency of the writ petition, the Tribunal became functional. In such view of the matter the said writ petition was disposed of by an order dated April 27, 2026 thereby permitting the petitioners to file an original application before the Tribunal with a direction upon the Tribunal to dispose of the same in accordance with law within a period of four months from the date of filing of thereof.
 - m. The said OA was heard by the learned Tribunal on June 12, 2026 and the same was dismissed by the order impugned. Hence the present writ petition.
3. Mr. Gopala Binu Kumar, learned advocate appearing for the petitioners submitted that the Tribunal committed a serious error in dismissing the petitioners' OA by relying on the Tribunal's earlier order dated May 21, 2026 passed in OA 351/712/2026 which held that since compassionate appointment of a person is an individual matter therefore all applicants for compassionate appointment could not have joined together as co-applicants in a single original application.



4. He invited the attention of this Court to the order dated May 21, 2026 passed by the Tribunal in OA 351/0712/2026 and submitted that the said order could not have been applied to the facts of the present case at all.
5. Mr. Binnu Kumar further submitted that in the subject OA the applicants (petitioners herein) have sought for the setting aside of the provisional list on the ground that the same has been prepared in derogation of the OM. It was submitted that the Tribunal has misread the prayers made by the petitioners and wrongly dismissed the OA. It was submitted that the petitioners only seek adherence to the OM in preparation of the list of eligible candidates.
6. He further relied on Rule 4 (5) of the Central Administrative Tribunal (Procedure) Rules, 1987⁵ and submitted that in terms thereof several applicants can join together in one application if they have common interest or if they have approached the Tribunal in respect of the same cause of action.
7. Mr. Rakesh Kumar, learned advocate appearing for the respondents submitted that the Tribunal has correctly passed the impugned order. It was submitted that each of the petitioners would have a different case for being considered by the Tribunal for the purpose of grant or refusal of compassionate appointment. It was submitted that in such view of the matter, it could not be said that all the petitioners had a common interest and they were aggrieved by a common act.

⁵ Hereafter “the 1987 Rules”



8. Heard learned appearing for the respective parties and considered the materials on record.
9. It is the common case of the petitioners in the OA filed by them that their respective fathers were working as *Work Charged Beldars* under various divisions of Andaman Public Works Department. It is also their common grievance that the impugned provisional list has been prepared *de-hors* the OM. They seek compassionate appointment in accordance with the OM.
10. The grounds mentioned in the original application attack the provisional list essentially on the ground of the same being violative of the OM. The core contention in the OA is that the OM must be followed. Premised on such ground the petitioners have prayed for the following reliefs:

“A (i) An order be passed setting aside the impugned Provisional List published on 21st November 2025 in the Daily Telegram whereby recommend the merit of the candidates allegedly in accordance with the parameters which evaluate the economic condition of the family of the deceased government servant on 100 point marking system and claim an objection was called for all consequential order/orders passed by the administration on the basis of the same.

(ii) An order be passed directing the respondent administration to appoint the applicants on compassionate ground to the posts of Regular mazdoors under different wings of the respondent No.4, more particularly under the respondent No. 9 to 17 on the basis of seniority/office memorandum dated 17.06.2022 issued by the government of India.”

11. Thus all the petitioners are aggrieved by the same provisional list and all the petitioners seek compassionate appointments on the basis of the OM (i.e. in effect the petitioners want reconsideration of their cases in accordance with the OM).



12. As prayers are founded on pleadings, therefore they must be read in the light of the pleadings. The prayer portion or clause cannot be parsed out and read in isolation.
13. Insofar as the first prayer made in the OA is concerned, the same is clearly not individualistic. It is collective. Such prayer can be answered only upon examining as to whether the provisional list has been prepared in terms of the OM or not. If it is found that the OM has been followed the prayer would lose life instantly.
14. The second prayer read in isolation of the pleadings may at the first blush lead to a conclusion that individual cases of each of the applicants may be required to be tested and examined, since a direction for grant of compassionate appointment has been sought. However, it is not so. Read in the light of the pleadings in the OA it would be found that the second prayer is in effect one seeking a direction to apply the OM in granting compassionate appointments to the petitioners and not a direction simpliciter to grant compassionate appointments to them. The prayer cannot be read to mean one seeking mandatory direction for compassionate appointment to each of the applicants in the OA.
15. Furthermore the second prayer is clearly consequential. If the first prayer is negated the second will simultaneously fail. The second prayer will fall for consideration only if the first is granted.
16. The Tribunal has presumably treated the prayers made by the petitioners in their OA as those straightway seeking directions for



grant of compassionate appointments to them. It is not so. The Tribunal would not be required to examine every single applicant's case and metrics on merits here. The only requirement would be to see if the provisional list is as systemically flawed as alleged. If the OM is found to be applicable and respondents are found to have acted de-hors the OM despite its applicability, then the Tribunal would have to pass appropriate orders *qua* the entire list.

17. To wit, the question that would fall for consideration before the Tribunal would not be as to whether each of the petitioners is entitled to compassionate appointment or not but as to whether the provisional list has been prepared in terms of the OM or not. If each of the applicants file separate applications before the Tribunal then also this same question will fall for consideration of the Tribunal in each of such applications. This, in our considered view is strongly indicative of common interest which is a prerequisite for filing an application jointly in terms of the 1987 Rules. In such context Rule 4(5)(a) of the 1987 Rules may be noticed:

Notwithstanding anything contained in sub-rules (1) to (3) the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter.

18. Albeit in a different context while interpreting the expression “same interest” employed in Order I Rule VIII of the Code of Civil Procedure, 1908⁶, (which is a shade narrower than the expression “common

⁶ Hereafter “the Code”



interest”) in the case of ***T.N. Housing Board v. T.N. Ganapathy***⁷ the Hon’ble Supreme Court held that “*either the interest must be common or they must have a common grievance which they seek to get redressed.*” We have already noted that the petitioners share a common grievance that the impugned provisional list has been prepared in derogation of the OM.

19. We are conscious that Rule 4(5) of the 1987 Rules is an enabling provision and the Tribunal may at its discretion refuse permission to several applicants to join together in a single application but then such discretion has to be exercised in accordance with law⁸.
20. The petitioners would have been certainly required to approach the Tribunal with separate original applications if they had sought for directions just to grant them compassionate appointments without basing their prayer on the OM and sans the pleadings that the provisional list has violated the OM. In such a situation each of their respective cases would have had to be individually assessed and examined in order to reach a conclusion.
21. In any case and at any rate, even if the Tribunal’s conclusion is taken to be correct the Tribunal could not have outrightly dismissed the OA. To be precise, if the Tribunal’s decision is accepted at face value then the OA could not have been maintained by all the applicants together but then it could definitely be maintained by any one of them. That choice has also not been left open for them.

⁷ (1990) 1 SCC 608

⁸ Aero Traders (P) Ltd. v. Ravinder Kumar Suri; (2004) 8 SCC 307



22. Since the Tribunal has taken an erroneous decision upon wrongful exercise of its judicial discretion thereby not only refusing to permit the petitioners to join together in one single OA but also dismissing the OA itself, therefore a case for interference under Article 226 of the Constitution of India has been clearly made out.
23. The other observation of the Tribunal that those persons against whom allegations have been levelled in the OA and who are likely to be affected by any decision on the OA should have been made parties to the OA is, however, perfectly justified. It is well settled that persons whose names appear even in a provisional select list should be made parties to a proceeding since they would be interested in protecting and defending the select list even though they do not have any vested right to appointment⁹.
24. However even such a defect of non-joinder of necessary parties, which could be fatal for proceedings specifically guided by the Code under certain circumstances, could not have led to the *in limine* dismissal of the OA itself. An opportunity could have always been given to the petitioners to remove the defect of such non-joinder of necessary parties and their failure to cure it despite opportunity being granted could then have justifiably resulted in the dismissal of the OA.
25. For all the reasons aforesaid, we set aside the impugned order dated June 12, 2026 and remand OA 351/843/2026 to the Tribunal for a fresh decision on merits subject to the condition that the petitioners

⁹ *All India SC & ST Employees' Assn. v. A. Arthur Jeen*; (2001) 6 SCC 380



would add the persons whose interests would be affected by any order that may be passed in respect of the provisional list impugned in the OA, as parties to the said OA.

26. It is clarified that this Court has not expressed any opinion on the merits of the respective cases of the parties. Accordingly, nothing in this order shall be treated as expression of any opinion by this Court on the merits of petitioners' claim for compassionate appointment. It is reiterated that the scope of the OA before the Tribunal is not to direct compassionate appointments to each of the petitioners. Instead it is only to examine whether the provisional list has been prepared following the OM and for passing necessary orders regarding the preparation of the provisional list in case it is found that the OM was not been followed despite being applicable .

27. WPCT/28/2026 stands disposed of with the above observations. No costs.

28. Urgent photostat certified copy of this judgment and order, if applied for, be supplied to the parties upon compliance with all formalities.

I agree.

(Sugato Majumdar, J.)

(Om Narayan Rai, J.)