

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 8411 OF 2009
(Arising out of SLP (C) No.11890 of 2008)

Director General,
Employees' State Insurance Corporation
& Ors.Appellants

VERSUS

Bharati Banerjee & Ors. ...Respondents

ORDER

Leave granted.

This appeal is directed against the judgment and order dated 5th of February, 2008 passed by a Division Bench of the High Court of Calcutta in W.P.C.T.No.758 of 2007, whereby the High Court had passed an order in favour of the respondent relating to the appointment of the respondent in Group-D Post of the Employees' State Insurance Corporation. An application was filed before the concerned Tribunal for appointment on compassionate ground, however, the authorities had appointed respondent Nos. 5 and 6 on that

ground in Group-D post of the Employees' State Insurance Corporation but had refused to accept the claim of the respondent for appointment. The Tribunal was approached by the respondent when the Tribunal directed the authorities to produce records relating to compassionate appointment of respondent Nos. 5 and 6 and also the respondent. It is not in dispute that respondent Nos. 5 and 6 were given appointment on compassionate ground. Perhaps for this reason, records were called for by the Tribunal, but records were not produced and for that reason the Tribunal had taken an adverse decision and directed appointment of the respondent for non production of the records relating to appointment of the respondent and also respondent Nos. 5 and 6. The High Court also directed the authorities to produce the records and since the records were not produced, the application was dismissed. Feeling aggrieved, an appeal was filed against the order of the High Court by way of a special leave petition which on grant of leave was heard in presence of the learned counsel for the parties.

When asked for, learned counsel for the appellant had produced the records relating to the appointment of respondent Nos. 5 and 6 on compassionate ground. Since the records were produced and we have also examined the records, a copy of which has already been handed over to Mr. Ranjan Mukherjee, learned counsel appearing for the respondent and since the records have now been produced, we thought it appropriate that on this ground the application filed before the High Court could not be dismissed. In this view of the matter, we set aside the order of the High Court and remit the case back to the High Court for decision afresh in accordance with law after giving hearing to the parties and after passing a reasoned order. Since the records relating to the appointment of respondent Nos. 5 and 6 were produced before us, we also direct the appellant to produce the records relating to those appointments before the High Court at the time of final disposal of the writ petition.

The High Court is requested to dispose of the writ petition within three months from the date of supply of a copy of this order to it.

The appeal is thus allowed to the extent indicated above.

There will be no order as to costs.

.....J.
[Tarun Chatterjee]

New Delhi;
December 17, 2009.

.....J.
[Surinder Singh Nijjar]

