
(2014) 10 JH CK 0037
In the Jharkhand High Court
Case No : W.P.(S). No. 1436 of 2005

Anand Kumar

APPELLANT

Vs

The National Institute of Technology

RESPONDENT

Date of Decision : 31-10-2014

Acts Referred:

Citation : (2014) 4 AJR 659 : (2015) 1 JLJR 225

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajiv Ranjan, Piyush Chitresh and S. Mishra, Advocate for the Appellant; Manish Mishra, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties.

2. Petitioner was appointed on compassionate ground in the Regional Institute of Technology, Jamshedpur on his application vide appointment letter dated 6.9.2000(Annexure-6) bearing order no. RIT(E) 3668/2000 issued by the Principal of the Institute. Petitioner's father admittedly died on 3.5.1980 and as the respondents pointed out, he had already been dismissed from service in the year 1977 before his death.

3. In the present writ application the termination of petitioner's appointment vide order contained at Annexure-12 dated 17.2.2005 issued by the Director of the Institute has been challenged inter-alia on the ground that it suffers from non-application of mind and it fails to deal with the contents furnished by the petitioner through his reply to the show cause being Annexure-10 and 11. Learned counsel for the petitioner has submitted that one of the reason to terminate the petitioner's services is that his elder brother was already in service. However it is submitted that the elder brother of the petitioner was in service since 1968 and the death of the petitioner's father occurred on 3.5.1980. It is also submitted on behalf of the petitioner that petitioner was engaged on daily wage since 1992 and in the year 1999 the respondents-R.I.T., Jamshedpur

constituted a committee for consideration of regularization of such employees. Petitioner also had claimed regularization or in the alternative he be appointed on compassionate ground. It is submitted by learned counsel for the petitioner that after 5 years of petitioner's appointment, termination of his services have been effected on the basis of scrutiny conducted by the respondents in view of the observations made by the learned Single Judge of this Court in W.P.S. No. 680 of 2002 preferred by one unsuccessful candidate namely Mithilesh Kumar citing instances of discrimination in the matter of appointment in R.I.T. It is submitted that the impugned order is cryptic and unsupported by reasons and therefore, it should be quashed as non of the aforesaid contentions of the petitioner has been taken into account.

4. Learned counsel for the respondent-Institute has submitted that no case for compassionate appointment could be made out on the part of the petitioner, firstly on account of the fact that his father had already been dismissed from service in the year 1977 before he died on 3.5.1980 when the petitioner was only 13 years of age; secondly no claim for compassionate appointment can be entertained after 20 years of death of bread earner of the family, who obviously is supposed to have died in harness, which is not the case here. It is further submitted that the respondent-Institute was directed to enquire into the matter of discrimination committed in case of compassionate appointment in R.I.T. in the judgment rendered in W.P.S. No. 680 of 2002 in the case of Mithilesh Kumar. The respondent-Institute enquired into several such matters and petitioner was served with a show cause being Annexure-9 dated 7.1.2005. His reply vide Annexure-10 and 11 were duly considered by the respondents and in the aforesaid background of facts, petitioner did not have any legal sustainable claim in respect of his appointment made on compassionate ground. It is pointed out that in similar circumstance, termination of compassionate appointment made in respect of other persons such as in the case of Santosh Mandal has been upheld by this Court in W.P.S. No. 1524 of 2005 vide judgment dated 2.5.2014. Petitioner's case stands on similar footing and therefore no relief should be granted to him.

5. I have considered the rival submissions of the parties and gone through the relevant materials on record. The relevant facts which are being noticed herein above, do point out that petitioner did not have any legal sustainable right to claim compassionate appointment under the respondent-Institute, since his father had already died on 3.5.1980 after being dismissed from service in the year 1977 itself. The case of compassionate appointment can obviously be entertained only if the employee dies in harness and not in a circumstance where he had died after his dismissal from service. In the case of Mithilesh Kumar, on being brought to the notice of this Court, the respondents-Institute were directed to undertake an enquiry in cases of compassionate appointment where certain irregularity had been committed and there were instances of discrimination. The respondents have conducted an enquiry and issued a detailed show cause to the petitioner. Petitioner, thereafter responded to the same vide Annexure-10 and 11

respectively. It therefore appears that there was due compliance of Principle of Natural Justice as well.

6. The issue at hand had also crossed the attention of this Court in case of one Santhosh Mandal who was also appointed in similar circumstance on 8.12.2001 on the death of his father late Jagdish Mandal, Medical Attendant in harness on 7.7.1989 i.e. after almost 11 years. The termination of the said petitioner was upheld by this Court as the said appointment on compassionate ground could not have been sustained after such a long delay.

7. In the aforesaid facts and reasons recorded herein above, the writ petitioner has failed to make out a case for interference in the impugned order of termination. The writ petition is accordingly, dismissed.