
(2020) 01 JH CK 0175

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1261 Of 2018

Anuj Kumar Sahu

APPELLANT

Vs

General Manager And Ors

RESPONDENT

Date of Decision : 14-01-2020

Acts Referred:

Citation : (2020) 01 JH CK 0175

Hon'ble Judges : Dr. S.N.Pathak, J

Bench : Single Bench

Advocate : Sunil Singh, Rajesh Kumar

Judgement

1. The petitioner has approached this Court for quashing of the impugned order as contained in letter vide Ref: COB: HRD: Compassionate

appointment dated 01.02.2018 issued under the signature of Respondent No.3 by which claim of the petitioner for appointment on compassionate

ground on account of death of his father while in service has been rejected without proper consideration and for direction upon the respondents to

consider the claim of appointment of the petitioner on compassionate ground on the basis of scheme of the Bank in the case of death of an employee

while in service.

2. The case of the petitioner lies in a narrow compass. The petitioner's father namely late Ajay @ Ajoy Kumar Singh was working in the Punjab

National Bank to the post of Cashier cum Clerk died in harness on 13.12.2014. The father of the petitioner was last posted at PNB, Dhanbad. After

the death of his father, the petitioner made an application for employment in the Bank on compassionate grounds vide application dated 03.06.2016.

The application was well within time i.e. 5 years from the date of death of his

father. Vide letter dated 20.1.2017, four points were sought by the respondent No.3 from respondent No.2 such as (a) difference in the name of the deceased employee (b) why the application not submitted by elder brother (c) Identity proof of wife of deceased employee and the petitioner (d) how the financial condition of the family can be considered requiring immediate relief in spite of receiving the retiral dues. In response to the letter dated 20.01.2017, the respondent No.2 asked the petitioner to submit the necessary details and clarification. The petitioner submitted the related documents sought in support of his claim for compassionate appointment vide his letter to the Chief Manager, BO: Katras Rd. Dhanbad. On submission of the required documents to the Bank by the petitioner, the respondent No.2 vide letter dated 14.04.2017 forwarded the related documents and recommended the claim of the petitioner for appointment on compassionate ground to the respondent No.2. But to his utter surprise, the proposal for his compassionate appointment has been rejected vide letter dated 01.02.2018 on the ground that the condition of the family is not indigent. The family is also in receipt of family pension, have self own accommodation and the employee had remaining service of 1 year and 2 months only. Aggrieved by non-consideration of the compassionate appointment, the petitioner has been constrained to knock the door of this Court.

3. Learned Counsel for the petitioner submits that there is no earning member in the entire family after the death of the father of the petitioner. The elder brother of the petitioner has also granted no objection in favour of the petitioner for the claim of the appointment on compassionate ground since he is not well educated. The claim for compassionate appointment was rejected merely on the ground that the family of the deceased employee has received the benefits under the various welfare schemes. The respondent-authority ought to have considered the application of the petitioner for appointment on compassionate ground on the balanced and objective assessment of the financial condition of his family. No single penny has been left with family after set off on various liabilities of the family in spite of the receipt of the net terminal benefits.

4. Per contra counter-affidavit has been filed.

5. Learned Counsel for the respondents vehemently opposing the contention of the petitioner submits that financial background of the petitioner is very

good after receiving the terminal dues and financial assistance. More so petitioner's family is also getting 19,444/- per month by way of family

pension and thus the competent authority has rightly taken the decision that the petitioner does not come within the ambit of compassionate

appointment and rightly rejected his case by the impugned order and thus the writ petition is fit to be dismissed.

6. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that case of the petitioner needs

consideration. The impugned order is not based on any cogent reason. The order of rejection is illegal, arbitrary and fit to be quashed and set aside for

the following facts and reasons:-

i. Rejection of compassionate appointment on the ground that condition of the family is not indigent, is not tenable in the eyes of law.

ii. The petitioner has made application within time and nothing has been brought on record to show that petitioner is not entitled for compassionate

appointment as per scheme.

iii. When scheme provides for compassionate appointment, the case of the petitioner cannot be brushed aside on the ground that the family of the

deceased employee has received benefits under various welfare schemes.

iv. As the petitioner fulfils all the requirement and had submitted document within time, name was recommended for compassionate appointment.

7. The Hon'ble Apex Court in case of *Balbair Kaur & Ors. vrs. Steel Authority of India Ltd. & Ors.*, reported in JT2000(7) SC 135 has held

as under:

"But in our view this Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden

jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the

family- This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity

thereafter reigns and it is at the juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken

family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would

be the replacement of the bread earner, but that would undoubtedly bring some

solace to the situation.â??

8. Further the Honâ??ble Apex Court in case of â??Canara Bank & Anr. vrs. M.Mahesh Kumar, reported (2015) 7 SCC 412 has held as under:

â??Lastly, the grant of family pension or payment of terminal benefits cannot be treated as a substitute for providing employment

assistance. The High Court also observed that it is not the case of the Bank that the respondentsâ?? family is having any other income to

negate their claim for appointment on compassionate ground. Thus, all the appeals preferred by the appellant Bank are dismissed and the

appellant Bank is directed to consider the case of the respondents for compassionate appointment as per the scheme which was in vogue at

the time of death of the employee concerned.â??

9. In view of the aforesaid judicial pronouncement and the legal proposition, the impugned order dated 01.02.2018 is not tenable in the eyes of law and

hence it is quashed and set aside. In the instant case, merely because the respondents have provided benefits of welfare scheme to the petitioner, the

same cannot be a ground for rejection of compassionate appointment and in view of dying in harness scheme, the respondent-Bank is directed to

consider the case of petitioner for appointment on compassionate ground, if there is no any other legal impediment, within a period of six weeks from

the date of receipt of a copy of this order.

10. The writ petition stands allowed.