
(2004) 09 JH CK 0052
In the Jharkhand High Court
Case No : Writ Petition (S) No. 2713 of 2004

Arif Khan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 104 FLR 263 : (2004) 4 JCR 679

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.

Bench : Single Bench

Advocate : M.K. Habib and A. Begam, for the Appellant; M. Prasad, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, A.C.J.

1. The writ petition was preferred by one Umerah Khatoon, widow of late Md. Zaffir Khan for compassionate appointment of his son, Arif Khan, one of the sons of the deceased. During the pendency of the writ petition, she died and a petition for substitution has been filed by the son. Arif Khan vide I.A. No. 1900 of 2004.

2. Having heard the counsel for the parties, the petition for substitution is allowed. Let Sri Arif Khan, son of late Md. Zaffir Khan be substituted as the petitioner in this writ petition.

3. According to petitioner Arif Khan, his father late Md. Zaffir Khan was in the services of the respondent. Garden Reach Ship Builders and Engineers Ltd., Kolkata and died in-harness on 27th September, 1999 while functioning as charge man. His grievance is that in spite, of application filed by his mother and then him within time, he has not been appointed on compassionate ground. The respondents have rejected the case of writ petitioner, Smt. Umerah Khatoon vide letter dated 16th October, 1999, which reads as follows :

"Sub: Employment in GRSE/DEP on compassionate ground

Dear Madam,

This refers to your application dated 13th October, 1999, on the above subject.

In this connection, we would like to submit that GRSE/DEP, Ranchi Unit, is at present having redundant workforce due to shortage of work. In Order to minimize the redundant workforce, we have already introduced voluntary retirement scheme and already 81 employees of DEP/Ranchi have been released under the Voluntary Retirement Scheme.

As such, we are not in a position to consider the case of your son Master Arif Khan for employment in GRSE/DEP, Ranchi in the wake of the reasons as stated above.

Thanking you.

Yours faithfully For G.R.S.E. Ltd. Sd/-

Manager (Works) D.E.P."

4. Apart from the aforesaid ground, the following stand has been taken by the respondents in their counter affidavit.

"That besides this since 1995 in case of the heirs and legal representatives of the deceased employed who died in-harness had applied for compassionate appointment and approximately 14 cases prior to case of this petitioners are awaiting consideration :

Number of cases of deceased employee whose dependants have applied for employment under compassionate ground but till date could not be given for reasons stated above.

SI. No. Name of the deceased date of employee Expiry 1. Late Anthony Ekka 08.09.1995 2. Late Mutu Munda 05.12.1995 3. Late Tilak Bahadur Thapa 23.10.1995 4. Late Sameshwar Pahan 08.02.1996 5. Late Kushal Tigga 15.03.1996 6. Late Abdul Majid 27.4.1996 7. Late Genalal Prasad 19.11.1996 8. Late G.N. Mishra 21.1.1997 9. Late Birsa Oraon 30.10.1997 10. Late Byaha Oraon 08.04.1998 11. Late M.Z. Hashimi 19.08.1998 12. Late S.N. Khan 26.10.1998 13. Late N.C. Poddar 05.06.1999 14. Late Michel Tirkey 08.07.1999 15. Late Zaffir Khan 27.9.1999 16. Late Basudev Behura 24.7.2000 17. Late Radheshyam Munda 25.7.2000 18. Late Munna Oraon 17.1.2001 19. Bhola Nath Singh 11.11.2001 20. Late Maghe Kachhap 02.06.2002

That there is no provision for compassionate appointment of a legal heirs of deceased employee of this unit in head office at Kolkata or in any other unit of M/s. Garden Reach and Ship Builders and Engineers Ltd."

5. In the facts and circumstances, as the respondents do not require more persons in their services and there is no provision for compassionate

appointment of legal heirs of deceased employee and no such scheme has been brought on record by the petitioner for compassionate appointment of wards of a deceased employee, no relief can be granted in the present case.

6. It is made clear that in absence of a scheme, the authorities cannot make any compassionate appointment of any ward/ dependent of deceased employee. If any such appointment was made in past without any scheme, the petitioner cannot derive any advantage of the same.

7. There being no merit, this writ petition is dismissed.