

(2011) 12 JH CK 0058

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5926 of 2006

Bajrang Ram and Ehtesamul Haque

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-12-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2011) 12 JH CK 0058

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel

1. The present writ petition has been preferred mainly for getting higher post than Class IV post on compassionate basis from very beginning because the petitioners are highly meritorious.

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, I see no reason to entertain this writ petition mainly for the following facts and reasons:

(i) The name of the father of petitioner no. 1 is Late Rameshwar Ram, who expired on 13th May, 2004 during course of his employment with the respondent State authority and, therefore, petitioner no. 1 was appointed on compassionate basis as Class IV employee with effect from 25th February, 2005.

(ii) The name of the father of petitioner no. 2 is Late Belal Ahmed, who expired on 19th July, 2004 during course of his employment with the respondent State authority and, therefore, petitioner no. 2 was appointed on compassionate basis as Class IV employee with effect from 25th February, 2005.

(iii) It appears from the facts of the case that the petitioners are seeking Class III post from very beginning of their appointment on the ground that some other

similarly situated candidates were given Class III post. This contention of learned counsel for the petitioners is not accepted by this Court mainly for the reason that compassionate appointment is not given as per the higher abilities of the petitioners, but, the compassionate appointment is given with a view to give necessary, bare minimum support to the family of the deceased employee. Compassionate appointment may not be given as per the eligibility and ability of the person, to be appointed on compassionate basis. Sometimes the employees, who have expired, their children are much more able than Class III post employee, but, they can never be appointed on much higher post. Bare minimum requirement is required to be kept in mind. Class IV post is also an offer, if the petitioners are found much more able themselves, then they must compete with others for getting public employment, as per Article 14 to be read with Article 16 of the Constitution of India.

(iv) In fact, there is no legal vested right in the petitioners to get higher post on compassionate basis, even if, they are highly qualified. It is contended by the learned counsel for the petitioners that some candidates have been appointed directly on Class III post. This contention is not accepted by this Court on the ground that there is no such vested right in the petitioners to get higher post and on the ground that there cannot be equality in illegality.

3. In view of the aforesaid facts and reasons, there is no substance in this writ petition and, hence, the same is, hereby, dismissed.