
(2020) 07 SHI CK 0274
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 817 Of 2019

Baldev Ram	Vs	APPELLANT
State Of H.P. And Others		RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Citation : (2020) 07 SHI CK 0274

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Neeraj K. Sharma, Ashok Sharma, Arvind Sharma, Kunal Thakur

Final Decision : Dismissed

Judgement

Sandeep Sharma, J

1. Being aggrieved with communication dated 13.6.2011 (Annexure P-4), whereby case of the petitioner for appointment on compassionate grounds, came to be rejected, petitioner has approached this Court in the instant proceedings, praying therein for following main relief(s):

"That the respondents may kindly be directed to grant the compassionate appointment to the petitioner while quashing the annexure P-4 and the policy if any which debars the petitioner from employment."

2. Precisely, the facts of the case, as emerge from the record are that the father of the petitioner, who was working as a Dozer Operator with the respondent Department, died in harness, leaving behind his wife, two sons and a daughter. Petitioner being one of the dependants of the deceased employee, applied for compassionate appointment. Alongwith the application, petitioner also enclosed affidavit executed by his mother (wife of the deceased employee) stating therein that she is incapable of taking up the job in place of her husband, on account of her illness. However, the fact remains that the aforesaid application made on behalf of the petitioner came to be rejected vide communication dated

13.6.2011, issued by Assistant Engineer, I&PH, Mech. Sub Division, Bagi (Annexure P-4), wherein petitioner was informed that as per the present Policy of the Government, Department is considering only those cases, where applicant is a widow or those cases where both the parents are not alive. In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein for the relief, as has been reproduced herein above.

3. Reply filed by the respondents clearly reveals that the case of the petitioner for appointment on compassionate grounds was duly considered by the authority concerned in terms of the Policy prevalent at the relevant time. Since the petitioner applied for the appointment on compassionate grounds in the year 2010, his case rightly came to be considered in light of the Policy in vogue at that time. Learned Counsel appearing for the petitioner was unable to dispute that as per Policy prevalent during the year 2010, only widow of a deceased employee could be offered appointment on compassionate grounds. In the case at hand, it is not in dispute that at the time of making application by the petitioner, his mother i.e. wife of deceased employee was alive and as such, case of the petitioner could not have been considered by the Department in terms of Policy prevalent at that time. Though, learned Counsel appearing for the petitioner vehemently argued that since father of the petitioner died on 3.5.2010, his case ought to have been considered in terms of the Policy prevalent at that time but, he was unable to point out condition, if any, contained in the Policy prevalent at the time of death of deceased employee, pointing therein clause, if any, that even son, during the life time of widow, could be offered appointment on compassionate grounds.

4. Otherwise also, application, if any, of a person seeking appointment on compassionate grounds, is/was to be considered by the competent Authority in terms of policy prevalent or in vogue at the time of filing of the application. Besides above, this Court finds that legal representatives of deceased employee received substantial amount after death of the employee on account of gratuity, leave encashment and GPF etc. as such, it cannot be said that the petitioner at the time of filing of application was living in utter penury. Reply of respondents reveals that the widow of deceased employee is in receipt of pension of Rs.8270/- per month, which is enhanced from time to time. Needless to say, right to compassionate appointment is not a legal right, rather, same depends upon various factors, more particularly the financial condition of the dependants, immediately after death of the employee.

5. Though, in the case at hand, case of the petitioner was submitted by Executive Engineer, Irrigation and Public Health Bagi to Superintending Engineer, I&PH Circle, Sundernagar vide letter dated 28.5.201 but the Finance Department having taken note of the Policy in vogue, rejected the case on the ground that widow of the deceased employee is still alive.

6. Consequently, in view of above, this Court finds no merit in the present petition, which is accordingly dismissed. All pending application also stand

disposed of.