
(2022) 04 MP CK 0078
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 853 Of 2021

Bholeram Raikwar

APPELLANT

Vs

State Of M.P And Others

RESPONDENT

Date of Decision : 08-04-2022

Acts Referred:

Citation : (2022) 04 MP CK 0078

Hon'ble Judges : Ravi Malimath, CJ;Purushaindra Kumar Kaurav, J

Bench : Division Bench

Advocate : Paresh Pareek, Rohit Jain

Final Decision : Dismissed

Judgement

Purushaindra Kumar Kaurav, J

1. This intra Court appeal takes exception to order dated 09.03.2021 (Annexure-A-1) passed by the learned Single Judge in Writ Petition No.9341 of 2020 whereby, the writ petition filed by the appellant/writ petitioner has been dismissed.

2. The case of the appellant is that his father namely; Shambhu Prasad Raikwar, was working with the respondents-Department as Chowkidar. He died on 19.04.2002 in harness. The appellant attained majority on 26.07.2011 and he immediately filed an application for grant of compassionate appointment. He stated that despite various representations, the authorities did not pass any order, therefore, he filed writ petition before this Court in the year 2020 which has been dismissed by the learned Single Judge on the ground of delay.

3. Learned counsel appearing for the appellant submits that the father of the appellant was already regularized in the year 1991 vide Annexure-P-3 to the writ petition. The appellant was not served with any communication from the respondents. Since he was hopeful of passing appropriate order on his request, therefore, the delay has occasioned. The same is not attributable to him and is

on account of inaction on the part of the respondents, therefore, the learned Single Judge has erred in dismissing the writ petition only on the ground of delay.

4. The respondents in their return specifically stated that on 17.05.2013 (Annexure R-2), the application of the compassionate appointment made by the appellant was rejected on the ground that there was no policy to grant compassionate appointment to the dependent of the deceased, who was working on Contingency Paid Establishment. It has also been stated that similar reply was again given to the appellant on 28.01.2019. The service of the said communication is disputed by the learned counsel appearing for the appellant. Notwithstanding, the same, when an application for compassionate appointment was made by the appellant on 26.07.2011, he ought to have approached this Court within a reasonable period of time. He filed a writ petition only in the year 2020, therefore, the learned Single Judge has not committed any error in dismissing the writ petition on the ground of delay. We uphold the said reasoning given by the learned Single Judge as it has been held by the Hon'ble Supreme Court in *IFCI Ltd. v. Sanjay Behari* (2020) 18 SCC 511 that where the initial representation is rejected, the subsequent representations on the same subject would not extend the period of limitation for filing the writ petition. Also see *State of Tripura v. Arbinda Chakraborty* (2014) 6 SCC 460.

5. We have perused Annexure-P-3 to the original writ petition which is being claimed to be the order of regularization of the services of the father of the appellant. The perusal of the same shows that the father of the appellant was regularized Under Work Charged Contingency Paid Establishment and was not regularized in the regular establishment. It is, thus, seen that the compassionate appointment cannot be claimed as a matter of right as it is not a vested right and the policy prevailing at the time of death of the deceased is relevant as has been recently held by Hon'ble Supreme Court in the case of *The State of Madhya Pradesh and others Vs. Ashish Awasthi* 2021 SCC Online SC 1084 . The Hon'ble Supreme Court in the matter of *Central Coalfields Limited through its Chairman and Managing Director and Others Vs. Parden Oraon* 2021 SCC Online SC 299/ AIR 2021 SC 1876 has held that the compassionate appointment cannot be granted after a lapse of long period. The object of compassionate appointment is to enable the family of the deceased to get over the financial crises at the time of death of the sole bread winner.

6. In the instant case, the date of death is 19.04.2002 of the father of the appellant. There is nothing on record to indicate that on the date of death of the deceased there was any policy applicable which provides for compassionate appointment to the dependent of an employee who was working under Contingency Paid Establishment. It is thus seen that even on merits, the appellant was not entitled for grant of compassionate appointment.

7. In view of the aforesaid, there is no substance in the writ appeal. Accordingly, the same is dismissed.