
(2008) 03 RAJ CK 0032
In the Rajasthan High Court

Chandra Mohan Meena

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 05-03-2008

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2008) 4 RLW 3034 : (2009) 2 SLR 441

Hon'ble Judges : P.B. Majmudar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

P.B. Majmudar, J.—This is a thoroughly misconceived writ petition filed by the petitioner seeking compassionate appointment on the ground that his father died while in service about 18 years back on 14.9.1990.

2. According to the petitioner, at the time of death of his father, he was minor as at that time he was only 4 years of age and therefore, at that time, her mother made an application for giving him compassionate appointment when he becomes major and accordingly when he attained the age of 18 years, he again moved an application for giving him compassionate appointment. The department vide order dated 6.7.2007 (Annex. 4 in the compilation) rejected the application of the petitioner on the ground that at the relevant time, elder son of the deceased employee, namely Kana Ram Meena, was in Government service, therefore, under Rule 5, no compassionate appointment can be given to the any other member of the family of the deceased employee. The petitioner has challenged the said order of the respondent department by way of this writ petition.

3. Learned Counsel for the petitioner Mr. Kalwania submitted that at the relevant time when the father of the petitioner died, he was only four years of age and therefore, the department should now consider his claim for compassionate appointment as now he has become major as he is 22 years of age as per the

age mentioned in the cause title of this petition. Learned Counsel for the petitioner has further submitted that at present since the elder son of the deceased is residing separately, the claim of the petitioner cannot be denied on the ground that his brother is in Government service.

4. I have heard learned Counsel for the petitioner and gone through the material available on record. Though looking to the facts of the case, no detailed reasons are required to be given while dismissing this writ petition as the same will be wasting of the stationary, yet when the learned Counsel for the petitioner has pressed into service various points in this petition, I am dealing with the same in this order.

5. It is required to be noted that the father of the petitioner died as back as on 14.9.1990 and by this time about 18 years have passed. At the time of death of the deceased employee, the petitioner was only four years of age and it is not expected from the department to wait for about 14 years by keeping a post reserved so that as and when the petitioner becomes major, such appointment may be given to him. It is a well-settled preposition of law that compassionate appointment is a special type of appointment and the object of giving such appointment is always to support the family of employee who died while in service, leaving his family without any means of livelihood, but such appointment cannot be granted as a source of recruitment and appointments on compassionate ground are required to be made in accordance with rules, regulations or Administrative Instructions taking into consideration the financial condition of the family of the deceased. This favorable treatment to the dependent of the deceased employee must have clear nexus with the object sought to be achieved thereby i.e. relief against destitution. The aforesaid aspect has been made clear by the Hon''ble Supreme Court in the case of Umesh Kumar Nagpal v. State of Haryana and Ors. reported in 1994(2) SLR 1 (SC), wherein the Hon''ble Supreme Court has dealt with the aspect of compassionate appointment. Learned Counsel for the petitioner is also not in a position to point out as to how the petitioner and his family has survived for about 18 years since the death of the deceased employee. Even otherwise, the department has found that the elder brother of the petitioner was already in service. Considering the aforesaid aspect also, no directions can be given to the department to give compassionate appointment to the petitioner as the father of the petitioner had died as back as in the year 1990 and if such stale claim is considered, such action may be violation of the Articles 14 and 16 of the Constitution of India and such decision cannot be said to be a reasonable decision. In a given case, if a person applies for compassionate appointment immediately or after a reasonable period after the death of the sole breadwinner, the department can certainly consider such application on merits.

6. However, so far as the facts of the present case are concerned, it cannot be said that the petitioner has applied for such appointment within a reasonable period. Even if the department has framed such policy of waiting for such a long

period in the case of a minor person, such policy would be in violation of Articles 14 and 16 of the Constitution of India. In any case, since in the instant case, the department has rejected the claim of the petitioner for getting compassionate appointment on the ground that his elder brother was already in service and also considering the fact that at the time of death of the deceased employee, the petitioner was only 4 years of age and his claim cannot be considered now after such an inordinate delay, no relief can be granted to the petitioner.

7. Considering the aforesaid aspect, I do not find any substance in this writ petition and the same is accordingly dismissed at admission stage.