
(2009) 10 SHI CK 0008
In the High Court Of Himachal Pradesh

Chetan Kumar

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 06-10-2009

Acts Referred:

Citation : (2009) 3 ShimLC 55

Hon'ble Judges : R.B. Misra, Acting C.J.;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.B. Misra, A.C.J. and Rajiv Sharma, J.—The present petition is being disposed of at the admission stage with the consent of the learned Counsel of the parties.

2. Brief facts necessary for the adjudication of the present petition are that the petitioner's father who was working as a Forest Guard with the respondent-corporation died on 8.9.1996, The petitioner's mother Smt. Nila Devi made representation to the respondent-corporation seeking appointment on compassionate basis for her son. The case of the petitioner was considered and ultimately rejected on 4.12.2008.

3. We are of the considered view that there is no illegality in the order dated 4.12.2008. In the present case the petitioner's father has died on 8.9.1996. 13 years have elapsed. The purpose of granting appointment on compassionate ground is to tide over the crisis immediately after the death of bread earner. The circumstances have changed within a period of 13 years and accordingly the respondents cannot be directed to appoint the petitioner on compassionate ground.

4. Their Lordships of the Hon'ble Supreme Court in a recent judgment in Eastern Coalfields Ltd. Vs. Anil Badyakar and Others, have held that the compassionate appointment is not a vested right and the same cannot be claimed long after death of employee in harness. Their Lordships have held as under:

19. The principles indicated above would give a clear indication that the compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crises is over. In the instant case the employee died in harness in the year 1981 and after a long squabble by the dependents of the deceased, they arrived at a settlement that the son-in-law of the second daughter who is unemployed may request for appointment on compassionate grounds. The request so made was accepted by the Personnel Manager of the Company subject to the approval of the Director of the Company. The Director (P), who is the competent authority for post facto approval, keeping in view the object and purpose of providing compassionate appointment has cancelled the provisional appointment on the ground that nearly after 12 years from the date of death of the employee such an appointment could not have been offered to the so-called dependent of the deceased employee. In our considered view, the decision of the employer was in consonance with the Umesh Kumar Nagpal's case AIR 1994 SCW 2305 and the same should not have been interfered with by the High Court.

5. Accordingly, in view of the observations made hereinabove, there is no merit in the petition and the same is dismissed. No costs.