

(1994) 07 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 11483 of 1993

Daljit Kaur

APPELLANT

Vs

Life Insurance Corporation of India and Another

RESPONDENT

Date of Decision : 20-07-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1994) 108 PLR 268

Hon'ble Judges : H.K. Sandhu, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : Rakesh Garg and Hemant Kumar, for the Appellant; B.R. Mahajan, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi and H.K. Sandhu, JJ.—Petitioner's husband late Shri Suninder Singh Khurana died on September 8, 1992 due to heart attack, while he was still in the service of the Life Insurance Corporation of India (for short, the respondent Corporation as Assistant Accounts Officer). After the death of her husband, petitioner submitted an application, dated 4.1.1993 for appointment of her daughter as a dependant of the deceased employee. On being asked by the authorities of the Corporation to submit application in prescribed proforma, the petitioner submitted the requisite application alongwith Annexure P-3, dated 25.1.1993. She thereafter submitted reminders, dated 12.3.1993 (Annexure P-4) and 17.6.1993 (Annexure P-5) to the Competent Authority for issue of an order of appointment. Having failed to persuade the authorities of the respondent Corporation to appoint her daughter as a dependant of the deceased employee of the Corporation, the petitioner has filed this writ petition and sought issue of a direction to the respondents to pass appropriate order for giving appointment to her daughter Jugjiv Kaur.

2. In reply, the respondent Corporation has pleaded that recruitment to the service of the respondent Corporation is governed by the Life Insurance

Corporation of India (Staff) Regulations, 1960, which have been framed u/s 49 of the Life Insurance Corporation Act, 1956. Regulation 4 of the Regulations empowers the Chairman of the Corporation to issue administrative instructions. The Chairman of the Corporation had on 27.11.1979 issued Life Insurance Corporation Recruitment (of Class III and Class IV) Instructions, 1979. Clause 22 of these instructions provide for appointment on compassionate grounds. By a subsequent order, dated January 20, 1987, some clarifications have been issued in regard to the appointment of a dependant of the deceased member of the Staff of the Corporation. On February 25, 1993 fresh instructions have been issued with the title as "Life Insurance Corporation Recruitment (of Class) III and Class IV Staff) Instructions, 1993." Clause 21 of these instructions also provide for recruitment of near relatives of an employee who dies while in service or retires five years prior to the date of superannuation. On the basis of these instructions, the Corporation has pleaded that the dependant of late Shri Suninder Singh Khurana cannot get employment under these instructions because one member of the family of the deceased is gainfully employed.

3. The only argument advanced by the learned counsel for the petitioner is that one dependant of deceased, namely, late Shri Suninder Singh Khurana is entitled to be appointed in the service of the respondent Corporation as a matter of right, irrespective of the fact that another dependant of late Shri Suninder Singh might be gainfully employed. Learned counsel further argued that Maninder Singh, who is one of the sons of late Shri Suninder Singh, is not living with the family and he cannot be treated as a dependant of late Shri Suninder Singh for the purposes of the instructions issued by the Corporation and for this reason, the decision of the Corporation not to appoint Ms. Jugjit Kaur is liable to be declared as illegal and arbitrary. Learned counsel appearing for the respondents submitted that in the face of clear and unambiguous instructions issued by the Corporation in 1979 and 1993, Ms. Jugjit Kaur cannot be appointed in the service of the Corporation as a dependant of late Shri Suninder Singh Khurana because his son is gainfully employed.

4. There is no controversy between the parties that the conditions of service of the Staff of the Life Insurance Corporation of India are governed by the provisions contained in the Life Insurance Corporation Act, 1956 and regulations framed under the said Act. There is also no dispute between the parties that the instructions of 1979 and 1993 have been issued by the respondent Corporation for the purpose of appointment on compassionate grounds. Para 22 (iii) of 1979 Instructions, Clause (4) of Circular, dated 20.1.1987 and para No. 21(ii) and (iii) of 1993 Instructions are reproduced below :-

Instructions of 1979

21. Relaxation in favour of near relatives of an employee who dies while in service:

(i)

(ii)... ..

(iii) The relaxation shall be admissible only where none of the members of the family-widow, son or unmarried daughter - is gainfully employed."

Circular, dated 20.1.1987:

"(4) Where any member of the family is employed, no appointment may be made on compassionate grounds."

Instructions of 1993:

"21. Relaxation in favour of near relatives of an employee who dies While in service or retires at least five years prior to the date of superannuation :

(i)... ..

(ii) Such relaxation shall be admissible only in favour of a spouse, son or unmarried daughter of the employee;

(iii) The relaxation shall be admissible only where none of the members of the family-spouse, son or unmarried daughter - is gainfully employed. However, if the widow is already employed else-where in private sector she will be allowed to take up a job in the Corporation in Class III or Class IV cadre commensurate with her qualifications if she opts for the same"

5. A perusal of the above quoted provisions clearly show that the general rules governing recruitment of Class III and Class IV Staff can be relaxed for giving appointment on compassionate grounds only where a member of the family of the deceased is not gainfully employed. Letter, dated 20.1.1987 cleared the doubt, if any, was there in para No. 22 (iii) of the Instructions. Use of expression "relaxation shall be admissible only where none of the members of the family is gainfully employed" is clearly indicative of the intentions of the authorities which issued the instructions, namely, that appointment on compassionate grounds should be given only where other member of the family of the deceased is not gainfully employed. These instructions have been framed with the object of providing source of sustenance/livelihood to the family of the deceased employee of the Corporation where no one else in family is gainfully employed. In other words, if some one is gainfully employed, another member of the family of the deceased cannot get benefit of these instructions. If the rule making authority had intended that one member for the family of the deceased should get appointment on compassionate grounds without any restriction, there was little occasion for it to have incorporated the conditions quoted above. In our considered opinion, where one member of the family of a deceased employee of the Corporation is gainfully employed, another member of his family cannot seek employment on compassionate grounds.

6. Argument of the learned counsel for the petitioner that Maninder Singh, son of late Shri Suninder Singh Khurana is living separately and, therefore, he cannot be treated as a dependant of late Shri Suninder Singh nor the family can be

treated as dependant on him does not cut any ice. Plain and unambiguous language-used in the instructions of 1979 and 1993 do not use the word "dependant". Absence of this word goes to show that even, if a member of a family is not discharging his moral obligation, though he is gainfully employed, the Corporation is not under an obligation to give employment to another member of the family.

7. For the reasons aforesaid, we do not find any merit in the writ petition, which we hereby dismiss.

8. No costs.