

(2014) 05 MP CK 0181
In the Madhya Pradesh High Court
Case No : W.P. No. 6490/14

Gajendra Singh Saini

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 02-05-2014

Acts Referred:

Citation : (2014) 05 MP CK 0181

Hon'ble Judges : R.S. Jha, J

Bench : Single Bench

Advocate : A.K. Singh, learned counsel, Advocate for the Appellant

Final Decision : Dismissed

Judgement

R.S. Jha, J.—Heard Shri A.K. Singh, learned counsel for the petitioner on the question of admission and interim relief.

2. The petitioner has filed this petition claiming compassionate appointment in place of his father who died while in service of the respondent/Board on 31.12.1998.

3. It is submitted by the learned counsel for the petitioner that at the time of death of the father of the petitioner, the petitioner was minor. The mother of the petitioner, for the first time, moved an application seeking compassionate appointment for his son on 12.7.2011. It is submitted that now the petitioner seeks a direction to the respondent/authorities to give him appointment on compassionate ground relying upon the decision rendered by this Court in the case of Narendra Singh Umath Vs. State of M.P. and Others, wherein it has been held that the petitioner is entitled to compassionate appointment by taking into consideration the policy prevalent at the time of death of the employee.

4. Having heard the learned counsel for the petitioner and having perused the record, it is clear that the father of the petitioner had died in the year 1998. From a perusal of Annexure P/4, it is clear that after the death of his father, his

mother though eligible, did not consciously seek compassionate appointment on account of the death of her husband. It is also clear that the petitioner has not filed any application seeking compassionate appointment till date and it is his mother who has filed an application seeking compassionate appointment for her son the petitioner, for the first time on 12.7.2011.

5. The Supreme Court in the cases of Sanjay Kumar v. State of Bihar and others, (2007) 1 SCC 192 and State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir, has held that compassionate appointment is permissible only in case, the person concerned falls within the four corners of the policy made in that regard and compassionate appointment cannot be claimed as a matter of right as it is a special mode of appointment given in exceptional circumstances to mitigate the hardships and financial crisis that falls on the family immediately after the death of the sole bread-winner leaving behind unemployed members in the family. The purpose of granting compassionate appointment is frustrated if it is not sought within a short period. Quite apart from the above, a Full Bench of this Court in the case of Bank of Maharashtra and Another Vs. Manoj Kumar Deharia and Another, has held that the policy of compassionate appointment prevalent on the date of consideration of the application seeking compassionate appointment is relevant and material and not the policy which was prevalent at the time of death of the employee. Apparently, the aforesaid Full Bench decision has not been considered or brought to the notice of the learned single Judge who has decided the matter in the case of Narendra Singh Umath (Supra) and therefore, the decision in the aforesaid case relied upon by the petitioner is per incuriam in view of the Special Bench decision of this Court rendered in the case of Jabalpur Bus Operators Association and Others Vs. State of M.P. and Another, and is not binding on this Court. More so, as the Special Bench decision of this Court has held that a Bench of lesser strength is bound by the view expressed by a Bench of larger strength and cannot take view in departure or in conflict therefrom.

6. In view of the aforesaid, I am bound by the Full Bench decision of this court rendered in the case of Bank of Maharashtra (Supra) and not by the decision of the learned single Judge rendered in the case of Narendra Singh Umath (Supra) and, therefore, the reliance placed by the learned counsel for the petitioner on the same is misconceived.

7. It is also pertinent to note that clause 6.1 of the policy on which the petitioner is placing reliance i.e. Compassionate Appointment Policy of 2013, Annexure P/5, stipulates that cases of compassionate appointment, of persons who were minor at the time of death of the employee would be considered only in case they become major within five years of the death of the employee.

8. In view of the law laid down by the Full Bench of this Court in the case of Bank of Maharashtra (supra) and clause 6.1 of the policy of 2013, I do not find any reason to entertain the present petition.

9. In the circumstances, the petition filed by the petitioner being meritless is

accordingly dismissed.