
(2009) 01 JH CK 0035
In the Jharkhand High Court

Kamli Devi

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-01-2009

Acts Referred:

Citation : (2009) 120 FLR 1183 : (2011) 2 JCR 214

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. The petitioner Kamli Devi is the widow of late Jagnath Lohar @ Jagarnath Lohar, a chowkidar working in Garrison Engineer/ MES, Ranchi, who died in harness on 17.12.1995 leaving behind his widow i.e. petitioner, two school going sons and one daughter of marriageable age. The petitioner being widow of the deceased employee applied for her appointment on compassionate ground on 8.01.1996. She was informed by issue of Annexure-4 dated 26.02.2001 by the Respondent that her case for compassionate appointment on the post of Mazdoor is under consideration and her name is at serial No. 25 in the merit list.

3. The grievance of the petitioner is that subsequently she received a letter as contained in Annexure-5 dated 14.08.2002 whereby she was informed that her claim for compassionate appointment has been rejected due to non-availability of sufficient vacancy within 5% quota.

4. From perusal of Annexure-5 i.e. order of rejection of the claim of the petitioner, it appears that in the said order it has been stated that the competent authority was of the view that the case of the petitioner does not deserve employment assistance on compassionate ground in view of the fact that her case was considered along with other candidates and they were found to be more deserving. It has also been stated In the said order that need for immediate assistance by way of compassionate employment to tide over the

emergency and crisis is lacking in the case of the petitioner since the death of the government servant occurred on 17.12.1995 i.e. six years and eight months ago.

5. After having heard the parties I am of the view that the order as contained in Annexure-5 rejecting the claim of the petitioner for appointment on compassionate ground by the Respondent is wholly illegal, unwarranted and unjustified for the following reasons:

(a) Admittedly the husband of the petitioner died on 17.12.1995 and the application for appointment on compassionate ground was made on 8.01.1996 i.e. within a period of one month, whereas the Respondents had taken about six years" time in rejecting the claim of the petitioner as it appears from the order as contained in Annexure-5 dated 14.08.2002. Therefore, in my view on the ground of delay of about six years the claim of the petitioner could not and should not have been rejected.

(b) So far as the other ground for rejection of the claim of petitioner that the cases of other candidates were considered along with the case of the petitioner and those candidates were found to be more deserving, as has been mentioned in the impugned order. Neither in the impugned order of rejection nor in the counter affidavits any statement has been made as to who were those candidates whose cases were considered to be more deserving than the petitioner and why they were given priority over the petitioner. Therefore, in my view the order as contained in Annexure-5 also suffers from vagueness and absence of justifiable reasons.

6. Accordingly, in view of the discussions and findings above, this application is allowed, the order as contained in Annexure-5 dated 14.08.2002 is hereby quashed and the matter is remitted back to Respondent No. 3 to consider the claim of the petitioner afresh sympathetically keeping in mind the observations and findings made above by this Court to and pass a fresh order in accordance with law within a period of eight weeks from the date of receipt/production of a copy of this order.