
(2011) 09 PAT CK 0109
In the Patna High Court
Case No : CWJC No. 9956 of 2011

Kiran Kumari

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 08-09-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2012) 2 PLJR 504

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Advocate : Basant Kumar Chaudhary and Pushpendra Kumar Singh, for the Appellant; Alok Kumar Singh, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Kr. Tripathi, J.—Heard learned Senior Counsel for the petitioner and learned counsel for the State. There is an old saying that calamity does not strike alone and this could be one of those cases where the family is through bad times. Petitioner is the divorced daughter of late Chandeshwar Singh. He was a Class-IV employee working in the collectorate at Sitamarhi and at the time of his death he was posted at Circle Office at Runni Saidpur in the district of Sitamarhi. His death happened on 29.12.1997. The employee left behind a widow and a married daughter. There were no claimant, therefore, for appointment on compassionate ground after the death of the employee as the mother was not in a position to claim such a benefit. Since petitioner happened to be a married daughter, therefore, was not entitled to this benefit because as per policy decision of the State, a married daughter had no standing in matters of claiming appointment under the State on compassionate ground.

2. State Government, however, in a progressive approach to such situations issued notification no. 1699 dated 5.5.2010 wherein divorced or abandoned daughters, who were dependent on the employee in question, could also claim the benefit of appointment under the compassionate head. When this policy was

notified by the General Administration Department, petitioner approached the respondents for her appointment under the State. Request of the petitioner came to be rejected by virtue of order dated 4.4.2011 contained in Annexure-4. This order of rejection, therefore, has become the cause of action for the petitioner to move this Court.

3. Submission of learned Senior Counsel is that the object behind extending the benefit of compassionate appointment cannot be lost sight of. If the State Government in its wisdom decided to extend this benefit to the divorced daughters who were dependent on the erstwhile employee, then they have to be accommodated and given employment. The policy, therefore, should be given widest of interpretation and the reason for rejection of the claim of the petitioner ought to be interfered with.

4. There is some difficulty in accepting the submissions of the learned counsel on this count keeping the background in mind that appointment under compassionate head is not a matter of right guaranteed under the Constitution. In fact it could be in teeth of Articles 14 and 16 of the Constitution of India. However, since such policy do exist, then appointment has to be made strictly in terms of the policy and not *de hors* the law.

5. The policy for compassionate appointment did not provide for situations of the kind which is now envisaged in Annexure-5. This extended inclusion of the beneficiaries has come into play on 5.5.2010. Father of the petitioner died in 1997. She came to be divorced in 2001. At that point of time, she was not eligible to claim benefit of compassionate appointment. Merely because the policy has undergone a change in 2010, it does not mean that all other requirements including the requirement of five years time frame fixed in the policy will have to be given a go-by and all old claimants will be allowed to now knock at the doors of the respondents for grant of such benefit. The Court also cannot overlook the fact that the object of providing compassionate appointment to a family member is to provide immediate relief on the death of the bread-earner of the family and not to reach out to the family in any kind of distress. Petitioner was already married though may be divorced subsequently but it does not allow her to claim benefit of compassionate appointment after 14 years of the death of her father or 10 years of the divorce.

6. Annexure-5, in the opinion of this Court, will have prospective application and cannot be given a meaning where all past transactions which have otherwise come to an end will be allowed to be re-opened.

7. In view of the abovestated facts and the interpretation given to the Rule, the Court has reservation in giving a direction upon the respondents to consider the claim of the petitioner for compassionate appointment. The reasoning for rejection on the ground that the court had granted divorce to the petitioner on 15.9.2001 and that is far too distant in time before the policy came into play seems to be valid. This writ application, therefore, has no merit. It is dismissed

in the above stated circumstance.