

(2008) 06 JH CK 0001
In the Jharkhand High Court

Kundan Herenj	Vs	APPELLANT
Ranchi Municipal Corporation		RESPONDENT

Date of Decision : 09-06-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 3 JCR 307

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.K. Merathia, J.—Heard the parties finally.

2. Petitioner is claiming for compassionate appointment against the death of his mother, namely, Jyoti Khalko, who is said to have died on 9.8.1998.

3. It is submitted that earlier the petitioner's father applied for compassionate appointment while he was working in a private firm in 1991, but no order was passed thereon. It is further submitted that thereafter the petitioner applied for his compassionate appointment on 23.1.2003 on which a letter was issued by the Ranchi Municipal Corporation, Ranchi to the effect that he has applied beyond time, and if he had applied within time, a copy thereof should be made available. Thereafter on 5.4.2003, the petitioner was asked to furnish certain documents, which was also submitted by him, but no order has been passed by the respondent on such application as yet.

4. Counsel for the respondent submitted that the respondent cannot be directed to consider the petitioner's case on compassionate ground after the lapse of 20 years from the date of death of his mother.

5. Admittedly the petitioner's mother died on 9.8.1988. If any application for compassionate appointment was filed by his father and no order was passed thereon, he did not take any steps in that regard. Even the petitioner applied for

his appointment on compassionate ground after more than 14 years. The petitioner cannot be allowed to cover such long delay on the basis of the said letters dated 2.4.2003 and 5.4.2003 issued by the Corporation. Petitioner and the family has survived for all these-twenty years.

6. It has been held in Umesh Kumar Nagpal Vs. State of Haryana and Others, that the consideration for such employment is not a vested right which can be exercised at any time in future; and that such appointment cannot be claimed and offered whatever the lapse of time and after the crises is over. Paragraph-11 of State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir, , reads as follows:

We may also observe that when the Division Bench of the High Court was considering the case of the applicant holding that he had sought "compassion", the Bench ought to have considered the larger issue as well and it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can be come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.

In the circumstances, this petition is dismissed. However, I am not imposing any cost on the petitioner.