

(2012) 01 JH CK 0004
In the Jharkhand High Court
Case No : Writ Petition (S) No. 1636 of 2004

Lawjee

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 11-01-2012

Acts Referred:

Citation : (2012) 3 JCR 350

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present writ petition has been preferred by the petitioner for getting appointment on compassionate ground, because of the death of his father, who was in the services of the respondent authorities and expired on 14th September, 1998.

2. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, I see no reason to entertain this writ petition mainly for the following facts and reasons:

(i) Father of the petitioner, while in the services of the respondents, expired on 14th September, 1998. Thereafter, much time has lapsed by now i.e. a period of more than 12 year is over. Thus the very purpose of compassionate appointment has been frustrated by now.

(ii) It has been held by the It has been held by the Hon"ble Supreme Court in the case of State of U.P. and Others Vs. Paras Nath, at paragraph nos. 4, 5 and 6, as under:

4. Seventeen years after the death of his father, the respondent, on 8.1.1986, made an application for being appointed to the post of a Primary School Teacher under the said Rules. His application was rejected. He, thereafter, filed a writ petition before the High Court. This writ petition was allowed by the High Court

and an appeal from the decision of the Single Judge of the High Court was also dismissed by the Division Bench of the High Court. Hence the State has filed the present appeal.

5. The purpose of providing employment to a dependent of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointment. The purpose is to provide immediate financial assistance to the family of a deceased Government servant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present case.

6. We may, in this connection, refer to only one judgment of this Court in the case of *Union of India v. Bhagwan Singh*. In this case, the application for appointment on similar compassionate grounds was made twenty years after the railway servant's death. This Court observed:

The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family.

(Emphasis supplied)

(iii) It has also been held by the Hon''ble Supreme Court in the case of *Sanjay Kumar Vs. The State of Bihar and Others*, , at paragraph nos. 2 and 3, as under:

2. Learned Senior Counsel appearing on behalf of the petitioner has placed strong reliance on the decision of a learned Single Judge of the Patna High Court in *Chandra Bhushan v. State of Bihar*. Learned Senior Counsel points out that it was held in that case that an applicant's right cannot be defeated on the ground of delay caused by authorities which was beyond the control of the applicant. Learned Senior Counsel further points out that instead of following the above judgment, the same learned Judge has now held on 21-4-1997 that the application is time-barred. Learned counsel has placed before us a judgment of this Court in *Director of Education (Secondary) v. Pushpendra Kumar*. He submits that, in this case, a direction was given to create supernumerary posts.

3. We are unable to agree with the submissions of the learned Senior Counsel for the petitioner. This Court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the bread earner who had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in *Director of Education v. Pushpendra Kumar*. It is also significant to notice that on the date when the first application was made by the petitioner on 2-6-1988, the petitioner was a minor and was not eligible for appointment. This is conceded by the

petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.

(Emphasis supplied)

(iv) It has further been held by the Hon'ble Supreme Court in the case of Santosh Kumar Dubey Vs. State of U.P. and Others, , especially at paragraph nos. 11 and 12, as under:

11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.

(Emphasis supplied)

(v) It has been held by the Hon'ble Supreme Court in the case of Eastern Coalfields Ltd. Vs. Anil Badyakar and Others, , especially at paragraph no. 19, as under:

19. The principles indicated above would give a clear indication that the compassionate appointment is not a vested right which can be exercised at any time in future. The compassionate employment cannot be claimed and offered after a lapse of time and after the crisis is over. In the instant case the employee died in harness in the year 1981 and after a long squabble by the dependents of the deceased, they arrived at a settlement that the son-in-law of the second daughter who is unemployed may request for appointment on compassionate grounds. The request so made was accepted by the Personnel Manager of the Company subject to the approval of the Director of the Company. The Director (P), who is the competent authority for post facto approval, keeping in view the object and purpose of providing compassionate appointment has cancelled the provisional appointment on the ground that nearly after 12 years from the date of death of the employee such an appointment could not have been offered to the so-called dependent of the deceased employee. In our considered view, the decision of the employer was in consonance with Umesh Kumar Nagpal's case and the same should not have been interfered with by the High Court.

(Emphasis supplied)

(vi) Moreover, it is submitted by the learned counsel for the respondents that the persons are being retrenched because of surpluses at Bhawanathpur Lime Mines of Steel Authority of India Limited.

3. Be that as it may, the fact remains that much time i.e. a period of more than twelve years has elapsed and, thus, the very purpose of compassionate appointment has been frustrated and, thus, in view of the aforesaid facts, reasons and judicial pronouncements, I see no reason to entertain this writ petition and hence, the same is hereby dismissed.