
(1989) 12 RAJ CK 0030

In the Rajasthan High Court

Case No : S.CCivil Writ Petition No. 1890 of 1989

Madhusudan Sharma

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 06-12-1989

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (1990) 1 WLN 312

Hon'ble Judges : N.C. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.C. Sharma, J.—This is a writ petition by Madhusudan Sharma under Article 226 of the Constitution of India for issue of mandamus to the respondents directing them to employ the petitioner in the State Government service in accordance with the Rajasthan. Recruitment of Dependants of Govt. Servants Dying While in Service Rules, 1975.

2. The Petitioner had passed Secondary Examination in 1974 and B. Com. in 1978, as would appear from the certificate Ex. 1 and the mark-sheet Ex. 2. Petitioner's father late Raj Mukund Sharma was a Government servant in as much as he was holding the post of Lecturer-in the Government Ayurved College, Jaipur on March 12, 1962. Father of the petitioner died due to brain-tumor on March 27, 1971. At the time of death of Bal Mukund Sharma the petitioner was too young and he did not know about the rights available to the family of the deceased Government servant under the Raj. Recruitment of Dependents of Government Servants Dying While in Service Rules, 1975 (for short, here in after "the Rules"). On January 1, 1986, the petitioner made an application Ex. 5 to the Secretary, Medical and Health Department, Government of Rajasthan requesting him to give him a suitable employment under the Government. However, the petitioner's request was rejected on the ground that the petitioner's father had expired on March 27, 1971 and, therefore, he could not be regarded as a

deceased Government servant within the meaning of that expression as defined in Rule 2(e) of the Rules. The petitioner has urged that the expression "on or after 2nd day of September, 1972" appearing in Rule 2(e) of the Rules has been struck down by a Division Bench of the Rajasthan High Court in D.B. Civil Writ Petition No 2194/1984, Shashi Kant v. State of Rajasthan and Ors. decided on March 16, 1989. The petitioner has, therefore, prayed that a directing be issued to the respondents to employ him in Government service in accordance with these Rules.

3. On behalf of the respondents, no reply was filed to the writ petition despite notice. Learned Dy. Government Advocate states that the respondents have not to file any reply.

4. It is clear that by the judgment of this Court in D.B. Civil Writ Petition No. 2194/1984, Shashikant v. The State of Rajasthan and Ors., decided on March 16, 1989, that the expression, "on or after 2nd day of September, 1972" in Rule 2(e) of the Rules has been struck down by this Court as violative of Article 14 of the Constitution. In view of the above decision the case of the petitioner would now fall within the purview of the Rules and his father late Bal Mukund Sharma would be a deceased Government servant as he was a Government servant who died while in service. Consequently, the petitioner is entitled to the benefit given to the member of the family of a deceased Government servant under the Rules.

5. I, therefore, allow this writ petition and do here by command to the respondents, by a writ of mandamus, to consider the case of the petitioner for the purpose of providing him a suitable employment in Government service in accordance with the provisions contained in the Rajasthan Recruitment of Dependents of Government Servants Dying While in Service Rules, 1975. As the petitioner has already moved an application on January 1, 1986 (Annx. 5) to the Secretary, Medical and Health Department, Government of Rajasthan, Jaipur, no fresh application would be required from him and action will be taken on that application without, any delay.