
(2016) 03 JH CK 0097
In the Jharkhand High Court
Case No : W.P.(S) No. 5974 of 2014

Md. Ibrar	Vs	APPELLANT
Union of India and Others		RESPONDENT

Date of Decision : 29-03-2016

Acts Referred:

Citation : (2017) 1 JBCJ 691 : (2016) 3 JLJR 28 : (2016) 3 LLJ 17

Hon'ble Judges : D.N. Patel and Amitav K. Gupta, JJ.

Bench : Division Bench

Advocate : Md. Ashrafuzzaman Khan, Advocate, for the Appellant; Mr. Ram Nivas Roy, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

D.N. Patel, J.—This writ petition has been preferred by the original petitioner/applicant challenging the order passed by the Central Administrative Tribunal, Patna Bench, Patna, Circuit Bench, Ranchi in O.A. no. 25 of 2013(R) which was dismissed vide order dated 15.02.2013.

2. Having heard counsel for both the sides and looking to facts and circumstances of the case, it appears that the father of this petitioner was working as Driver (Goods)/(Loco Forman) with the respondents, Katrasgarh, Dhanbad. He applied for voluntary retirement vide his application dated 25.04.1997 because the mother of the petitioner was suffering from mental disease and there was no one to look after her except the father of the petitioner.

3. It further appears from the facts of the case that voluntary retirement application was accepted and approved by the respondents w.e.f. 24.07.1997 i.e. after on expiry of three months? notice period.

4. It further appears from the facts of the case that meanwhile periodical medical examination of the father of the petitioner was done on 15.07.1997, just before 8 days of acceptance of his voluntary retirement. The father of the petitioner failed in medical category A-1 to B-2 but declared fit in medical category C-1 and

C-2.

5. The father of this petitioner was granted voluntary retirement w.e.f. from 24.07.1997 and he was medically decategorised on 15.07.1997. He was also granted Leave of Half Average Pay (L.H.A.P.) from 15.07.1997 to 23.07.1997 for the same post as no alternative job could be provided to him for a short period of 8 days.

6. It further appears from the facts of the case that the father of this petitioner had never applied for withdrawal application for voluntary retirement after his medical decategorisation, hence, father of the petitioner did not wait for any alternative job nor attended before the Screening Committee and he voluntarily retired w.e.f. 24.07.1997. All the retiral benefits legally payable to the father of the petitioner have been paid as per order passed by the respondents which is at Annexure-R-1 and R-2 of the counter affidavit filed by the respondents in this writ petition.

7. It further appears from the facts of the case that much after the voluntary retirement, i.e., after approximately two years from voluntary retirement, the father of the petitioner applied for compassionate appointment of his son. Obviously, this application had to be dismissed by the respondents and in fact, the same was dismissed vide order dated 02.02.2001, which was challenged by this petitioner before Central Administrative Tribunal, Kolkata. The matter was remanded and a fresh decision was taken by the respondents on 03.10.2001, and vide this decision also, no compassionate appointment was given to the petitioner.

8. Thus, it appears from the facts of the case that the voluntary retirement application was preferred by the father of this petitioner on 25.04.1997, which was accepted after three months' notice period by the respondents. Thus, voluntary retirement was given to the father of the petitioner w.e.f. 24.07.1997, and, hence, no error was committed by the respondents in rejecting the application for compassionate appointment of this petitioner which was preferred approximately after two years of voluntary retirement of the father of the petitioner. Even otherwise also, compassionate appointment is not a matter of right.

9. Learned counsel appearing for the petitioner has relied upon the Circular dated 10.11.2000 which is annexed with this writ petition. Looking to the facts of the present case, it appears that just before 8 days of voluntary retirement, the father of the petitioner was found medically unfit for category A-1 to B-2, whereas he was found medically fit for category C-1 and C-2. He has never waited for any alternative employment for 8 days, moreover, for his son, an application for compassionate appointment was preferred approximately after two years of his voluntary retirement. In these circumstances, no error has been committed by the respondents in rejecting the application for compassionate appointment. These aspects of the matter have been properly appreciated by the

Central Administrative Tribunal while rejecting O.A no. 25 of 2013(R) preferred by this petitioner. Hence, there is no substance in this writ petition, hence the same is hereby, dismissed.