

(2006) 07 JH CK 0025
In the Jharkhand High Court

Md. Sahid Ansari

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 24-07-2006

Acts Referred:

Citation : (2007) 1 JCR 119

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Permod Kohli, J.—Petitioner's father late Suleman Ansari was a permanent employee and serving on the post of Driver in 1634-Pioneer COY (GREF). He died in harness on 31st of January, 2003. leaving behind family, consisting of the widow four adult sons and a daughter, who were dependent upon the deceased-employee. Widow of the deceased-employee informed respondents that the appointment be given to her son Sahid Ansari, petitioner, who is the one amongst four sons petitioner's mother was informed by letter dated 6th of March, 2003 to submit an application in the prescribed DD Form for compassionate appointment. Accordingly, requisite form was filled-up, receipt whereof is acknowledged by the Respondents in their communication dated 13th of August, 2003 while intimating the mother of the petitioner that the case for compassionate appointment of her son is under consideration and the whole process takes three to six months. Thereafter, the case of the petitioner was rejected by the Board, constituted to consider the compassionate appointment cases and rejection of the petitioner was communicated to his mother vide letter dated 8th of September, 2003 impugned, herein. Petitioner has challenged this letter and is seeking a further direction for his compassionate appointment in accordance with the norms laid down by the Respondents. The claim of the petitioner has been rejected by the Respondents on the ground that on the basis of criteria laid down vide letter dated 9th of March, 2001, the appointment is to be made against 5 per cent of the direct recruitment vacancies available in the

Department and 46 points were required on the basis of merit fixed, however, petitioner secured only 40 points out of hundred and his case was not approved for compassionate appointment. The respondents have also placed on record the Compassionate Appointment Scheme notified vide Office Memorandum dated 9th of October, 1998. criteria laid down for consideration by awarding the points under various headings as notified vide letter dated 9th of March, 2001 as also the supplementary criteria notified vide letter dated 8th of July, 2002. Even the points awarded to the petitioner by the Board are also disclosed in Annexure-A to the counter-affidavit. Petitioner has been awarded total 40 points out of hundred under various headings as per the break-up given in the aforesaid Annexure.

2. I have heard learned Counsel appearing for the parties and examined the Scheme. Clause 4 of the 1998 Scheme provides the categories to which the Scheme applies, eligibility for such appointment, availability of vacancies, and various other factors. Under letter dated 9th of March, 2001, criteria to be applied for compassionate appointment has been laid down. On the basis of the points to be allocated under different headings like family pension, terminal benefits, monthly income of the earning members, movable/immovable property, number of dependents, number of unmarried daughters, number of minor children and left over services, points are fixed. Petitioner has been awarded points under various heads as indicated in this letter. However, the grievance of the petitioner is that he was also entitled to 5 points under the heading f (number of unmarried daughters). According to the family strength of the deceased, petitioner has got one unmarried sister i.e. unmarried daughter of the deceased- employee, for which five more points were to be allocated. However, from the marks awarded as disclosed in Annexure-A, it appears that under this column, no points have been awarded. Apart from above, petitioner has also relied upon Para 4 of the letter dated 5th of March, 2001, which, inter alia, provides that a candidate, who has applied and is not recommended for want of vacancy in the first consideration, he is to be provided total three considerations alongwith fresh applicants. This fact is also admitted by the respondents in the counter. From the records disclosed, it appears that petitioner has not been accorded consideration in accordance with the Scheme and the criteria laid down for the purpose. At the first instance, five more points were required to be allocated to the petitioner as he has one unmarried sister. With these additional five points to be awarded under Clause of the letter dated 9th of March, 2001, petitioner is to get 45 points, whereas, he has been awarded 40 points. Respondents have mentioned in the counter-affidavit that on the basis of the merits, 46 points were fixed. However, neither the Scheme nor the criteria or the supplemental criteria disclosed to the Board reveal in any manner that minimum 46 points were fixed to qualify for compassionate appointment. Such a position does not appear to be otherwise available from the record, as it is only the comparative merit on the basis of the points to be awarded under the laid down criteria, which is relevant and there is no limit of fixing minimum merit points in the consideration. Even the Scheme does not provide for minimum points, which

a candidate must secure to qualify for his consideration of compassionate appointment. The petitioner has been accorded only one consideration and he is required to be provided two more opportunities along with fresh candidates.

3. In view of the above circumstances, this writ petition is allowed. Impugned order of rejection of the claim of the petitioner for compassionate appointment communicated vide letter dated 8.9.2003 is hereby quashed and respondents are directed to reconsider the case of the petitioner in accordance with the Scheme providing him two more opportunities and also the points as per the criteria laid down under letter dated 9th of March, 2001. It is found that 5 points for one unmarried daughter of the deceased employee have not been awarded. Respondents will take into consideration this aspect also and accordingly ensure further consideration strictly in accordance with the Scheme. Let consideration be accorded within a period of three months or at least in the next Board meeting and result be communicated to the petitioner.