
(2003) 10 JH CK 0014
In the Jharkhand High Court
Case No : Writ Petition (S) No. 3439 of 2003

Meera Devi

APPELLANT

Vs

Steel Authority of India and Others

RESPONDENT

Date of Decision : 18-10-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 101 FLR 307 : (2004) 1 JCR 107

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Himanshu K. Mehta, P.K. Nayak, Manjusri Patra and Saibal Mitra, for the Appellant; Rajiva Ranjan and Ananda Sen, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—In both the cases, as common question of law involved, they were heard together and are being disposed of by this common order.

2. The husband of petitioner Meera Devi, Late Biranchi Sharma of WP(S) No. 3439 of 2003 was an Ex-fitter in Bokaro Steel Limited (hereinafter referred to as the BSL) under the Steel Authority of India Ltd. (hereinafter referred to as the SAIL), died in harness in the year, 1990. The application of Smt. Meera Devi for compassionate appointment having rejected by the Deputy General Manager, I/C (Personnel) of BSL, SAIL, the petitioner has challenged the letter No. DGM I/C (Pers)}/2002-4487 dated 8th October, 2002.

The gist of the letter reads, as follows :

"3. Our records reveal that after death of your husband viz. Late B. Sharma, you had applied for allowing benefits under Company's Employees' Family Benefits Scheme (EFBS) vide your application dated 17.3.1992, on your own volition. The said request was granted by the management and benefit in the form of monthly payments as envisaged in the scheme is being paid to you every month from 7.4.1992 and this monthly payment amounting to Rs. 2023.75 is available to you

till 31.12.2010. So you are not in harness and financial distress since you have been enjoying monthly under EFBS."

3. The husband of petitioner Smt. Rukmini Devi of WP(S) No. 3570 of 2003, Late Jag Narain Singh was a Technician, Electricity Department of BSL under SAIL. He died in harness on 28th December, 1995 said Rukmini Devi applied for compassionate appointment, vide letter dated 13th September, 2002 which was rejected by the Deputy General Manager, I/C (Pers)/ BSL, SAIL, vide letter No. DGM, I/C (Pers)/ 2002-448 dated 8th October, 2002. She has challenged the aforesaid letter of rejection.

The relevant portion of which reads, as follows :

"3. Our records reveal that after death of your husband viz. Late J.N. Singh, you had applied for following benefits under Company's Employees' Family Benefits Scheme (EFBS) vide your application dated 8.2.1996, on your volition. The said request was granted by the management and benefit in the form of monthly payments as envisaged in the scheme is being paid to you every month from 21.3.1996 and this monthly payment amounting to Rs. 4671/- is available to you till 31.1.2011. So you are not in harness and financial distress since you have been enjoying monthly income under FEBS."

4. The counsel for the petitioners relied on the Supreme Court decision in the case of Balbir Kaur and Another Vs. Steel Authority of India Ltd. and Others, to assail the grounds given by the respondents as quoted above.

5. In the case of Balbir Kaur (supra), the counsel for the SAIL brought to the notice of the Court, the salient feature of the Family Benefit Scheme and submitted that the family being unable to obtain regular salary from the Management could avail of the benefit of the Scheme by depositing the lump sum Provident Fund and Gratuity amount with the Company in lieu of which the Management would make monthly payment equivalent to the basic pay together with dearness allowance last drawn and payment would continue till the normal date of superannuation of the employee in question. The Family Benefit Scheme was meant to provide an assured or regular income per month, while the bulk amount deposited by way of Provident Fund and gratuity with the Management remained intact. The Employee's family could avail of pay upto normal date of superannuation on the footing that the employee though not actually working, but notionally continued to work till the normal date of superannuation, which was more beneficial to an employee or a deceased employee.

6. But the aforesaid submission was rejected by the Supreme Court which held, as follows :

".....But in our view this Family Benefit Scheme cannot in any way be equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the breadearner can only be absorbed by lump sum amount being made available to the family--this is rather unfortunate but

this is a reality. The feeling of security drops to zero on the death of the breadearner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monthly benefit would be replacement of the breadearner, but that would undoubtedly bring some solace to the situation."

7. In view of aforesaid finding of the Supreme Court in the case of Balbir Kaur (supra), against the SAIL, now it is not open to the respondents to reject the claim of a dependent of a deceased employee for compassionate appointment. The ground shown in the rejection letters both dated 8th October, 2002 (Nos. 4487 and 4488), therefore, cannot be accepted.

8. Now the question arise whether the case of the petitioners should be remitted for reconsideration for compassionate appointment or not.

9. In the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, the Supreme Court held, as follows :

"For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules.

The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over."

10. The aforesaid Supreme Court's decision in the case of Umesh Kumar Nagpal and various other decisions of the Supreme Court and the Patna High Court were also noticed by a Bench of Patna High Court in case of Arun Kumar v. The State of Bihar, reported in 1998 (1) PLJR 48. The Court summarized the decisions, as follows :

"(a) The compassionate appointment cannot be granted after a lapse of reasonable period which must be specified in the rules.

(b) The compassionate appointment cannot be claimed after lapse of time.

(c) The compassionate appointment cannot be offered after the crisis is over, and

(d) The provision for compassionate appointment is necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned."

11. Admittedly, the husband of petitioner Meera Devi died in harness in the year 1990. Now more than 13 (thirteen) years have passed. In this background, it is not desirable to remit the case of Meera Devi for reconsideration for compassionate appointment after thirteen years of death, being impermissible.

12. So far as Rukmini Devi is concerned, her husband died on 28th December,

1995. She did not choose to apply for compassionate appointment for years together. After about seven years, she applied for compassionate appointment, for the first time, on 13th September, 2002 (vide Annexure 3). The stand taken by the petitioner Rukmini Devi that she applied for compassionate appointment some time in the year 1996 cannot be accepted in absence of any specific date of application and the statement made being vague. Further, from the letter dated 13th September, 2002 (Annexure 3), it will be evident that the Sl. No. and date of application has been kept blank by Rukmini Devi meaning thereby that no application filed by her prior to 2002.

13. In the circumstances, as the compassionate appointment cannot be claimed after lapse of time, it was fit to be rejected on the ground of delay. Therefore, the question of remitting the case of Smt. Rukmini Devi does not arise.

14. There being no merit, both the writ petitions are dismissed.