
(2014) 07 MP CK 0153
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 370/2014

Mohammad Shahabuddin	Vs	APPELLANT
Bharat Heavy Electricals Ltd.		RESPONDENT

Date of Decision : 09-07-2014

Acts Referred:

Constitution of India, 1950 — Article 14
Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 — Section 2(1)

Citation : (2014) 07 MP CK 0153

Hon'ble Judges : Rajendra Menon, J;Alok Verma, J

Bench : Division Bench

Advocate : A.T. Faridee, Learned Counsel, Advocate for the Appellant; Atul Agnihotri, Learned Counsel and Manoj Kushwaha, Learned Panel Lawyer, Advocate for the Respondent

Judgement

1. Heard learned counsel for the parties on I.A.No. 5359/2014, application for condoning the delay in filing of this appeal.
2. Keeping in view the reasons given in the application and finding the same to be bona-fide, the delay in filing of this writ appeal is condoned.
3. Learned counsel for the parties are heard on the question of admission of this appeal.
4. This is an application under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyay Peeth Ko Appeal) Adhiniyam, 2005 calling in question tenability of an order dated 4.12.2013 passed by the Writ Court in W.P.No. 11100/2013.
5. Facts in nutshell go to show that the appellant's father Late Aminuddin was working in the Bharat Heavy Electricals Ltd. Bhopal as an Assistant Grade-III. While working so, he died in harness on 22.2.1991 as is evident from the Death Certificate Annexure-P10. At that point of time, the appellant was a minor.

Appellant passed the Higher Secondary School Certificate Examination in the year 1992, B.Sc from Barkatullah University, Bhopal in the year 1999 and obtained certain Post Graduate Degree in M.A. in the year 2001 and certain other qualifications like Diploma in Computer Application, B.Lib and Information Science between the year 2001 to 2004.

6. Be it as it may be, after he had attained majority, appellant submitted an application seeking compassionate appointment on 23.8.1999 i.e. after a period of 8 years of death of his father. It is the case of the appellant that from the year 1999 upto 18.10.2001, respondents corresponded with the appellant, sought for various information but after 18.10.2001, nothing was done. However, the appellant sought for certain information under the Right to Information Act on 18.8.2012 and it came to the notice of the appellant that right from 1991 upto 2012, various compassionate appointments were made but appellant's case was not considered, even though on 18.10.2001 he was informed that his case is under consideration. When the respondents did not consider his case, the writ petition was filed in the year 2012.

7. Learned Writ Court took note of all these factors and found that the compassionate appointment through intervention of the Court is sought in the year 2012, 38 years after death of the employee concerned and as there is an inordinate delay and during this period, the family would have got over the crises, the purpose of compassionate appointment is not available and dismissed the writ petition. In doing so, we are of the considered view that no error has been committed by the Writ Court warranting interference.

8. Shri Faridee, learned counsel for the appellant tried to emphasize that the appellant immediately after he attained majority on 23.8.1999 had submitted an application for compassionate appointment and on 18.10.2001, he was informed that his case shall be considered in due course but when nothing was done from 2001 upto 2012 and when many other persons were appointed, appellant challenged the same before this Court.

9. The aforesaid narration of facts clearly go to show that after death of the bread winner of the family on 22.2.1991 for a period of 8 years, the family survived and it is only after the appellant attained majority that the application for compassionate appointment was filed on 23.8.1999, thereafter, from 18.10.2001 upto 18.8.2012, the appellant again kept quite and did not seek any compassionate appointment. Now in the matter of grant of compassionate appointment, it is very clear and it has been the consistent view of the Supreme Court that the compassionate appointment is not an appointment in accordance to the recruitment rules, it is an appointment in violation to the provisions of Article 14 of the Constitution and, therefore, is to be granted strictly in accordance with a scheme and only if the family is in deep crises warranting compassionate appointment.

10. Apart from the aforesaid, another principle laid down by the Supreme Court

is that merely because at the time of death of the employee, the person concerned i.e. the dependent is a minor after 10 to 14 years of death of the employee, compassionate appointment cannot be granted only because the person concerned has attained majority. The consistent view of the Supreme Court is that the compassionate appointment should be granted immediately after death of the bread winner, it is not to be granted after inordinate delay of 10-14 years, as the purpose of granting of compassionate appointment already stands defeated by the passage of time. In this regard, following judgments of the Supreme Court may be taken note of where all these principles have been crystallized: They are Jagdish Prasad Vs. State of Bihar and Another, , Haryana State Electricity Board and another Vs. Hakim Singh, , Sanjay Kumar Vs. The State of Bihar and Others, , State of Haryana and Another Vs. Ankur Gupta, and a full bench judgment of this Court in the case of Bank of Maharashtra Vs. Manoj Kumar Kehariya ILR 2010 MP 1876 so also a Division Bench Judgment of this Court in the case of Kanchhedi Lal Ghasita Vs. Union of India (UOI) and Others, .

11. If the principles laid down as indicated hereinabove and the judgments of the Supreme Court in the aforesaid cases are applied in the present case, it is seen that the appellant is seeking compassionate appointment after a period of more than 18 years of death of the employee concerned. That apart, the first application for compassionate appointment was itself submitted after a period of 8 years of death and during the period from 18.10.2001 upto 18.8.2012 i.e. for a period of 11 years also, nothing was done by the appellant and he kept quite being satisfied by submitting a representation in the year 1999.

12. Taking note of the all these circumstances, we are of the considered view that there is an inordinate delay in seeking compassionate appointment. compassionate appointment cannot be granted in the present case after a period of more than 18 years of death of the employee and, therefore, in dismissing the petition, the Writ Court has not committed any error warranting interference.

13. The appeal is, therefore, dismissed.