
(2010) 05 GUJ CK 0057

In the Gujarat High Court

Case No : Special Civil Application No. 2266 of 2004

Mukeshbhai Rameshbhai Bhangi

APPELLANT

Vs

Divisional Manager and Others

RESPONDENT

Date of Decision : 03-05-2010

Acts Referred:

Citation : (2010) 05 GUJ CK 0057

Hon'ble Judges : K.S. Jhaveri, J

Bench : Single Bench

Advocate : H. Ahmed, for the Appellant; Nirav Sanghvi, for Ashish M. Dagli, for Respondent 1, for the Respondent

Final Decision : Dismissed

Judgement

K.S. Jhaveri, J.—The petitioner has challenged the letter/order dated 05.12.2002 of respondent No. 1 - Divisional Manager, Vadnagar S.T. Depot whereby the petitioner's application for compassionate appointment was rejected on the ground that the said application is delayed by two months and 15 days. It is further prayed to give compassionate appointment on appropriate post in place of petitioner's deceased father in the interest of justice to the petitioner.

2. The father of the petitioner who was working with the respondent died in harness on 30.01.1996. At the relevant time of the death of the father of the present petitioner, the present petitioner was a minor and, therefore, some related persons preferred an application before respondent No. 2 on 17.02.1996 for release of the service and pensionary dues to the petitioner and his sisters and also requested for compassionate appointment of the present petitioner. The petitioner made an application on 04.09.2000 and therefore, on 25.09.2001 again, the petitioner gave reminder application to respondent No. 3. The petitioner was neither given any response nor was he given any proper reply. The petitioner approached the concerned authorities and also approached the Minister of Transportation on 29.04.2002. The petitioner made representation on 25.04.2003. The respondent No. 3 has rejected the application of the present

petitioner on 05.12.2002. Hence, this petition.

3. Learned advocate for the petitioner submitted that the respondent authority has erroneously rejected the request of the petitioner even though the father of the petitioner had died in harness. According to him, since the father of the petitioner was in the employment of the respondent authority, he should have been granted appointment on compassionate ground on attaining the age of majority.

4. As a result of hearing and perusal of the record, there is no dispute that the father of the petitioner has died on 30.01.1996 and the petitioner made an application on 04.09.2000 for compassionate appointment. Admittedly, there is also delay in applying for appointment under the scheme.

5. In the appointment on compassionate ground there should not be any delay in such appointment, in case of *State of Manipur Vs. Md. Rajaodin*, the Apex Court has held that when there is a long delay in applying for appointment under the scheme, such request cannot be accepted. It is required to be noted that the purpose of providing appointment on compassionate ground is to mitigate the hardships due to death of the breadwinner in the family. Such appointment should, therefore, be provided immediately to redeem the family in distress. The fact that the petitioner was a minor at the time of death of his father is no ground, unless the scheme itself envisages beneficially otherwise to state that as and when such minor becomes a major he can be appointed without any time consciousness or limit. The above principle is laid down in the case of *Smt. Sushma Gosain and Others Vs. Union of India (UOI) and Others*, As held in the case of *Sanjay Kumar Vs. The State of Bihar and Others*, there cannot be any reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The aforesaid view has further been reiterated by the Apex Court in the case of *Eastern Coalfields Limited v. Anil Badyakar and Ors.* reported in (2009) 13 SCC 112. In the present case, the petitioner is not able to point out any provision in the scheme which enables the petitioner to apply for appointment on compassionate ground after a long delay. Therefore, this Court is of the view that the authority has rightly rejected the request of the petitioner in view of the long delay in making application.

6. In the premises aforesaid, I do not find any merits in the petition. The same is accordingly dismissed. Rule is discharged with no order as costs.