
(2015) 09 JH CK 0046
In the Jharkhand High Court
Case No : WP(S) No. 1411 of 2015

Nabin Roy

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 28-09-2015

Acts Referred:

Citation : (2015) 4 JLJR 260

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : B.N. Rajak, for the Appellant

Final Decision : Allowed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. Petitioner's father died on 8.9.2008 while working as Peon in the office of respondent No. 5, Executive Engineer, Design Division No. 2, Adityapur, Jamshedpur under the Department of Water Resource Development, Government of Jharkhand leaving behind his widow, four daughters and three sons, one of them being the petitioner. Petitioner's mother claimed earlier for compassionate appointment on 28.1.2010 which was not considered reportedly on account of her illness i.e. Chronic Bronchial Asthma. Petitioner submitted his claim for compassionate appointment through Annexure-4 in a prescribed format containing several documents on 7.9.2013 i.e. penultimate day before expiry of the period of five years from the date of death in terms of the Government Circular dated 27.4.1995, Annexure-14. Due to some infirmity in his application he was asked to remove the same, whereafter it was resubmitted on 26.10.2013 as per statement made in para 8 of the counter affidavit also. However, it got rejected by the District Compassionate Appointment Committee, Seraikella-Kharsawan by the impugned decision, Annexure-7 dated 15.1.2014, communicated through letter dated 22.3.2014. Therefore, the petitioner has approached this Court seeking redressal of his grievances.

2. The petitioner has also relied upon communication contained in Annexure-10, dated 10.6.2014 of the Chief Engineer, Subernrekha Multi-purpose Project, Adityapur, Jamshedpur, Annexure-12 dated 16.12.2014 of the Superintending Engineer, Design Circle, Adityapur, Jamshedpur and Annexure-13, dated 7.1.2015 of the Under Secretary, Subernrekha Multi-purpose Project to advance his submission that Deputy Commissioner has been reportedly informed that the petitioner's application was made well within time.

3. Respondent-State in para 5, 8, 9 and 23 have also stated that the application was made on 7.9.2013 and is within time limit of five years but was resubmitted on certain correction after delay beyond the 5 years time limit.

4. In the aforesaid set of admitted fact, learned counsel for the petitioner submits that denial of compassionate appointment on the impugned ground is not sustainable in the eye of law or on fact. A benefit of social welfare measure should not be defeated on such technical ground, if the petitioner has fully complied with all the formalities. Reportedly, only a no objection certificate from rest of the dependants was required to be submitted, he had submitted the same by 24th September, 2013.

5. Learned counsel for the respondent-State besides advertng to the fact contained in the counter affidavit does not dispute the contention of the petitioner that he made his application just before the period of expiry of five years from the date of death.

6. From Annexure-4 it also appears that the application was made in a prescribed format and several enclosures such as death certificate, declaration form, family certificate, educational certificate, age certificate, caste certificate, income certificate, certificate of residence, genealogical certificate, character certificate, affidavit sworn by him and also the certificate of movable/immovable property were enclosed to the said application.

7. If that be so, the rejection of the petitioner's claim appears to be suffering from complete non-application of mind. Any remaining defects in the application form is a matter of procedural requirement, which could not be made the basis to defeat the petitioner's claim. In view of the stand of the respondents also it is beyond doubt that petitioner did make his claim within the time of 5 years specified in the departmental Circular dated 27.4.1995, Annexure-14. Therefore, rejection of the petitioner's claim by the decision contained in Annexure-7 dated 15.1.2014 communicated by order dated. 22.3.2014 cannot be upheld and is, accordingly, quashed. The respondents shall consider the case of the petitioner afresh in accordance with law within ten weeks from the date of receipt of a copy of this order. This writ petition stands allowed in the manner indicated hereinabove.