
(2008) 04 CHH CK 0003
In the Chhattisgarh High Court

Nagendra Singh Parihar

APPELLANT

Vs

The State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 04 CHH CK 0003

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—According to learned Counsel appearing for the petitioner, the father of the petitioner namely Shri Shiv Singh Parihar, was working as J. M. I. in Primary Health Center, Mungeli, District - Bilaspur, when he died on 3.7.1985 in harness.

2. The mother of the petitioner, made an application on 6.2.1987 (Annexure P/3) that since her children are minor, when they will attain the majority, they will file an application for compassionate appointment.

3. After attaining majority, the petitioner filed an application dated 13.8.2005 (Annexure P/4) for compassionate appointment to the respondent No. 5. The application of the petitioner was forwarded to the Directorate, Health Services, Bhopal (M.P.), as the matter relates to the year 1985 i.e. for the period of undivided State of Madhya Pradesh. The Directorate, Health Services, Bhopal vide letter dated 27.7.2006 (Annexure P/1) informed the petitioner that there is no provision for providing compassionate appointment to the petitioner after a period of seven year of the death of the employee (father of the petitioner).

4. Learned Counsel appearing for the petitioner submits that the petitioner is entitled to appointment on compassionate basis when he attained the majority. Learned Counsel for the petitioner placed reliance on a decision of the Hon'ble Supreme Court in Mohan Mahto v. Central Coal Field Ltd. and Ors. AIR 2007 SCW

6060.

5. The petitioner has filed this petition with unexplained and inordinate delay, seeking a direction to the respondents to grant compassionate appointment. The father of the petitioner died on 3.7.1985 and the mother of the petitioner did not make an application for compassionate appointment at that time.

6. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

7. In Haryana State Electricity Board and another Vs. Hakim Singh, the Supreme Court held that "the whole object of any compassionate appointment scheme is to give succor to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member."

8. The Supreme Court in the case of State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir, , in para 11 has held as under:

11...it is that such an appointment is an exception to the general rule. Normally, an employment in the Government or other public sectors should be open to all eligible candidates who can come forward to apply and compete with each other. It is in consonance with Article 14 of the Constitution. On the basis of competitive merits, an appointment should be made to public office. This general rule should not be departed from except where compelling circumstances demand, such as, death of the sole breadwinner and likelihood of the family suffering because of the setback. Once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no necessity to say "goodbye" to the normal rule of appointment and to show favour to one at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.

9. The judgment and order passed by the Hon"ble Supreme Court in the case of Mohan Mahto (supra) is not applicable to the facts of the present case. In the case of Mohan Mahto (supra), the National Coal Wage Agreement (N.C.W.A.) provides that the male dependent of concerned worker, 15 years and above in age, will be kept on live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. Further, the father of Mohan Mahto died on 23.2.1997 and the petitioner made an application on attaining the age of majority on 26.9.1999. The facts in the present case are different, where the petitioner has filed an application on 13.8.2005 i.e. after a period of 20 years, without disclosing the reasons for

delay. According to learned Counsel appearing for the petitioner, the petitioner attained the age of majority in the year 2002, as he was born on 9.10.1984. Thereafter, the petitioner has taken more than three years in making application without explaining inordinate delay.

10. In view of the above settled principles of law, there is no merit in this petition. The petition is accordingly dismissed summarily. No order as to costs.