

(2013) 10 MP CK 0067

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1072 of 2005 (S)

Nathuram Prajapati

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0067

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : S.S. Raghuvanshi, for the Appellant; Nidhi Patankar, Govt. Advocate for the State, for the Respondent

Final Decision : Dismissed

Judgement

Sujoy Paul, J.—By invoking jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has prayed for a direction to appoint him on compassionate basis as Daak Runner. Shri S.S. Raghuvanshi, learned counsel for the petitioner submits that the petitioner's father died on 13.12.2002. The petitioner's father was appointed in the Irrigation Department on 1.3.1989 and worked from 1.3.1989 to 12.12.2002 on regular basis and, therefore, the petitioner deserves compassionate appointment. In support of this contention, he relied on Annexure P-10 which shows that the petitioner's father, who was daily rated employee was regularized in work charge establishment as Daak Runner (725-900) w.e.f. his joining by order dated 1.3.1989. By placing reliance on the judgment of this Court in W.P. No. 2731/2010 (Shahjad Khan Vs. State of M.P. & others), it is contended that the petitioner's father had attained the status of permanent employee as per Rule 2(c) of the rules mentioned in the said judgment. He also relied on the judgment passed by this Court in W.P. No. 3542/2012 (S) (Amit Shrivastava Vs. State of M.P. and others).

2. Per contra, Mrs. Patankar, learned Govt. Advocate opposed the relief. It is contended that the petitioner's father has not completed 15 years of service in a work charge establishment. As per the policy, the dependents of work charge and

daily rated employees are not entitled for compassionate appointment.

3. I have heard the learned counsel for the parties and perused the record.

4. The basic contention of Shri Raghuvanshi is that the petitioner's father worked in work charge establishment from 1.3.1989 to 12.12.2002 and, therefore, has acquired the status of permanent employee. It is apt to mention that as per Rule 2(c), a presumption of permanency can be drawn only when the work charge employee has completed fifteen years of service in a work charge establishment. Annexure P-10 shows that the petitioner's father became member of the work charge establishment only w.e.f. 1.3.1989. As per this date, his father has not completed 15 years of service. Thus, it cannot be presumed that petitioner's father had completed 15 years of service in a work charge establishment. Thus, Rule 2(c) of M.P. (Work Charge Contingency Paid Employees) Pension Rules, 1979 is of no assistance to the petitioner. In absence of any such presumption of permanency, petitioner's case is not covered under the Scheme.

5. This is settled in law that compassionate appointment can be granted only in terms of the Scheme. No material is shown to this Court which provides the benefit of compassionate appointment to a dependent of a work charge employee. In absence thereof, no mandamus can be issued for appointment of the petitioner. For the reasons stated above, the judgments cited by the petitioner are of no assistance to him. Petition sans substance and is hereby dismissed.