

(2012) 09 JH CK 0202

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2378 of 2005

Niraj Kumar Singh

APPELLANT

Vs

National Institute of Technology, Jamshedpur, Director,
National Institute of Technology, Jamshedpur, Registrar,
National Institute of Technology, Jamshedpur and Dr. D.
Bhattacharya, Ex-Director, NIT, Jamshedpur

RESPONDENT

Date of Decision : 11-09-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 1 LJLR 57

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta, for the Appellant; Manish Mishra, for the Respondent

Final Decision : Dismissed

Judgement

Alok Singh

I.A. No. 1201 of 2006

1. This application is not pressed at this stage. Accordingly, I.A. No. 1201 of 2006 stands dismissed as not pressed.

W.P. (S) No. 2378 of 2005:

2. Undisputedly, late B.P. Sinha was working with the Institute who had expired in harness on 17.6.1986 leaving behind his widow Smt. Vidya Devi and one son Mr. Ashutosh Kumar who was one year and three months old as on 17.6.1986. Undisputedly, Smt. Vidya Devi widow of late B.P. Sinha made an application before the Principal, RIT, Jamshedpur for compassionate appointment of Niraj Kumar Singh - petitioner showing Niraj Kumar Singh as her grand son. Undisputedly, a similar application was again filed on 28.1.1987 by Smt. Vidya Devi showing the petitioner as her grand son seeking compassionate

appointment for him. Undisputedly, Niraj Kumar Singh was provided job in the RIT, Jamshedpur on daily wages in the year 1987 on compassionate ground on the request of Smt. Vidya Devi. Undisputedly on 10.09.2001 Smt. Vidya Devi filed an affidavit stating that her grand son Niraj Kumar Singh who was given compassionate appointment on daily wages be taken in regular service on account of death of her husband. Undisputedly, a separate affidavit was also filed on behalf of the petitioner that late B.P. Sinha was his grand father and there was no case pending against him and he was never convicted in any criminal case, therefore, his services may be regularised. On the basis of the application and affidavits so moved Board of Governors of the respondents confirmed the services of Niraj Kumar Singh.

3. Thereafter, in the year 2001 Smt. Vidya Devi filed W.P.S. No. 6058 of 2001 seeking compassionate appointment in favour of her son Ashutosh Kumar. This Court vide judgment dated 10.01.2002, annexure no. 1 to the writ petition has dismissed the writ petition, wherein, this Court has observed all the undisputed facts as narrated hereinabove. This Court has denied the compassionate appointment to Ashutosh Kumar saying that on the date of his father's death i.e. 17.6.1986, he was one year old and on the request of Smt. Vidya Devi, widow of late B.P. Sinha, compassionate appointment was given to Niraj Kumar Singh - petitioner Order dated 10.01.2002 was upheld by the Division Bench in L.P.A. No. 126 of 2002 on 11.07.2002, annexure no. 2.

4. It seems that one Mithilesh Kumar seeking compassionate appointment has made complaint to this Court that compassionate appointment was granted by the respondents to some ineligible person. Mr. Mithilesh Kumar also initiated contempt case being Contempt Case (Civil) No. 866 of 2002 before this Court wherein Director, RIT, Jamshedpur had appeared in person and had made a statement that Committee had already been constituted to look into the matter on legality and propriety of the compassionate appointment granted to several persons including the petitioner. On the statement so made, contempt petition was disposed of vide order dated 7.3.2003, annexure no. 3/1 to the writ petition.

5. Committee so constituted by the respondents to look into the legality and propriety of the compassionate appointment had found that petitioner in fact was not the real grand son of late B.P. Sinha and was the grand son of one of the cousins of late B.P. Sinha therefore, was not entitled for the compassionate appointment. Pursuant to the recommendation of the Committee so constituted, a show-cause notice was issued to the petitioner on 7.1.2005, annexure no. 3 to the writ petition. Petitioner has submitted his explanation to the show-cause on 10.01.2005, annexure no. 4.

6. Considering the representation and show-cause notice, the impugned order terminating the service of petitioner was passed on 1.3.2005, annexure no. 6 to the writ petition. Feeling aggrieved, petitioner has knocked the door of this Court by invoking Article 226 of the Constitution of India.

7. I have heard learned counsels for the parties and perused the records.

8. There is no dispute that petitioner was granted compassionate appointment on the request of Smt. Vidya Devi, widow of late B.P. Sinha considering the petitioner as real grand son of late B.P. Sinha. Petitioner was issued show-cause notice as to why his services may not be terminated on the ground that he was given compassionate appointment illegally considering him real grand son of late B.P. Sinha, while in fact, he was not the real grand son/dependent of late B.P. Sinha and in fact was the grand son of cousin (brother) of late B.P. Sinha.

9. On being asked repeatedly, Mr. A.K. Mehta, learned counsel for the petitioner fairly submitted that petitioner is not the real grand son of late B.P. Sinha. However, Mr. Mehta submits that since petitioner was granted appointment and appointment was confirmed by the Board of Directors, therefore, without giving reasons termination order as contained in annexure no. 6 should not be allowed to sustain.

10. Perusal of the show-cause notice would reveal that all the facts, reasons and grounds are mentioned therein proposing the termination of the services of the petitioner. The main ground for termination of the services of the petitioner as shown in the show-cause notice was that petitioner was not the real grand son of late B.P. Sinha, therefore, was not entitled to be considered and appointed on compassionate ground. Since there is no denial to this fact that petitioner is not real grand son of late B.P. Sinha, termination order seems to be totally justified. Consequently, this writ petition is dismissed.