

(2009) 09 RAJ CK 0087
In the Rajasthan High Court
Case No : Civil Writ Petition No. 1863 of 2008

Pawan Kumar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 04-09-2009

Acts Referred:

Prevention of Corruption Act, 1988 — Section 13(1), 13(2), 7
Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 — Rule 19

Citation : (2009) 09 RAJ CK 0087

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Govind Mathur, J.—Late Shri Bhal Singh, a constable with Rajasthan Armed Constabulary (RAC) Battalion-II, was convicted for the offences punishable under Sections 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988 under a judgment dated 03.04.1998 given by the Court of learned Judge, Anti Corruption Cases, Bikaner. An appeal giving challenge to the judgment dated 03.04.1998 came to be accepted by this Court on 01.02.2007. Consequently, Shri Bhal Singh was acquitted from all the charges.

2. Relevant to note here that after conviction under the order dated 03.04.1998 Shri Bhal Singh was dismissed from service on 13.04.1998 in exercise of the powers conferred by Rule 19 of the Rajasthan Civil Services (Classification, Control & Appeal) Rules, 1958. Shri Bhal Singh during pendency of the appeal giving challenge to his conviction died and, therefore, the appeal was prosecuted and pursued by Smt. Ompati widow of Shri Bhal Singh and on acceptance of appeal she also claimed pension and all other post retiral benefits being entitled for the same. The respondents denied pension and other post retiral benefits in view of the dismissal of Shri Bhal Singh, hence a petition for writ (SB Civil Writ Petition No. 1590 of 2008) was preferred by her and that came to be accepted on 25.8.2008 by setting aside the order of dismissal from service dated 13.04.1998

with entitlement of Smt. Ompati to receive family pension as well as all other ancillary benefits thereto being widow of Late Shri Bhal Singh. The respondents in compliance to the directions given by this Court on 25.08.2008 have already given pension and other ancillary benefits to Smt. Ompati.

3. The present petitioner, son of Late Shri Bhal Singh, after setting aside of the order dated 13.04.1998, submitted an application as per the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servant Rules, 1996 (hereinafter referred to as "the Rules of 1996") claiming appointment on compassionate grounds. The Commandant, IVth Battalion, RAC, Jaipur vide his letter dated 23.01.2008 rejected the petitioner's claim in view of the opinion given by the Deputy Legal Remembrance, Police Head Quarters, Jaipur. Being aggrieved by the same, this petition for writ is preferred.

4. The case of the respondents for denying appointment to the petitioner is that Late Shri Bhal Singh died in the year 2000 and, therefore, now in the year 2009 no cause survives for making appointment on compassionate grounds. It is asserted that such an appointment could have been given only to meet immediate harness and that does not exists now.

5. I have considered the rival contentions.

6. The petitioner presently of the age of 25 years is claiming appointment on compassionate grounds. Such request was made by him immediately after getting dismissal order of his father set aside by this Court. True it is, no application as per the provisions of the Rules of 1996 was preferred by him in the year 2000, at the time of death of his father, however, that was not done as at the relevant time the order of dismissal was in currency and the petitioner was not entitled to get appointment on compassionate grounds. The occasion for the petitioner first time came in the year 2008 for making application under the Rules of 1996 only on quashing of the order of dismissal. He, quite promptly acted upon and submitted an application for appointment on compassionate grounds. The respondents should have considered application of the petitioner on merit instead of rejecting the same being delayed. As a matter of fact there is no delay in the instant matter as the entitlement of the petitioner accrued and ripped only in the year 2008.

7. Accordingly, this petition for writ is allowed. The decision of the respondents rejecting the petitioner's application under the Rules of 1996 is declared illegal. The respondents are directed to consider the petitioner's application for appointment under the Rules of 1996 afresh by ignoring the reason of delay in submitting the same.

8. No order to costs.