

(2013) 05 KAR CK 0016

In the Karnataka High Court

Case No : Writ Appeal No. 30918 of 2012 (S-RES)

Prabhugouda Bhimanagoudar @ Patil

APPELLANT

Vs

Director, (HRD) KPTCL, Superintendent Engineer and
Executive Engineer (O and M) HESCOM

RESPONDENT

Date of Decision : 29-05-2013

Acts Referred:

Karnataka Electricity Board Employees Recruitment (Appointment on Compassionate Ground) Regulation, 1997 — Section 4(1)

Citation : (2013) 05 KAR CK 0016

Hon'ble Judges : N.K. Patil, J;B. Manohar, J

Bench : Division Bench

Advocate : Seema S. Naik, for the Appellant; B.S. Kamate, for R1, R3 and R2 SD, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—The appellant has questioned the validity and legality of the order dated 25.06.2012 passed in W.P. No. 60525/2010 by the learned Single Judge wherein he had questioned the correctness of the endorsement dated 22.12.2008 vide Annexure-L produced along with the writ petition and for a direction to the respondents to consider the application of the appellant for appointment on compassionate grounds and further to direct them to complete the proceeding as early as possible within a time frame. The said writ petition came up for consideration before the learned Single Judge and the learned Single Judge after hearing the learned counsel appearing for the parties dismissed the writ petition which order is questioned in this writ appeal. The case of the appellant is that his father while in the employment of 1st respondent died on 07.10.2006 leaving behind his widow, two sons and two daughters of whom the appellant is the second son. He made an application on 20.02.2007 for an appointment on compassionate grounds. The said application came to be rejected by the respondents vide endorsement dated 22.12.2009 on the ground that the family of the deceased had a monthly income of Rs. 10,232/- since the

elder son of the deceased was serving in the Army. The said endorsement was questioned before the learned Single Judge in W.P. No. 60525/2010. When the matter had come up before the Court on 25.06.2012, the learned Single Judge after hearing the learned counsel appearing for both the parties and by taking into consideration the provisions of Regulation 4 (1) of the Karnataka Electricity Board Employees Recruitment (Appointment on Compassionate Ground) Regulation, 1997, (for short "the Regulation") by assigning valid reasons at paragraph 2 of the order has rejected the writ petition as devoid of merits. Being aggrieved by the said order, the appellant has presented this appeal seeking appropriate relief as stated supra.

2. The submission of Smt. Seema S. Naik, learned counsel appearing for the appellant at the outset is that the learned Single Judge has committed grave error in proceeding to reject the writ petition, confirming the endorsement issued by the competent authority of the respondent-Corporation on the sole ground that as per Regulation 4(1)(a) the family of the deceased Board employee shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources of all persons whether living separately or jointly, including the earnings of other family members shall be less than the income prescribed by the Board from time to time. For calculating such monthly income, the income from family pension, interest earned on pensionary benefits would be excluded. Hence, she submits that the order passed by the learned Single Judge is not justifiable for the reason that the brother of the appellant has already separated from the joint family and staying separately along with his wife and minor child at Belgaum and that the brother may not come within the definition of the family and that the appellant was entirely dependant on the source of income of the father. It is also her case that the appellant does not have any property and that the family is in financial distress. These aspects have not been considered by the learned Single Judge and therefore the order passed by the learned Single Judge is liable to be set aside.

3. As against this, learned counsel for the respondent-Corporation Sri. B.S. Kamate, substantiated that the order passed by the learned Single Judge is after due consideration of the material on file and also as per the relevant Regulation. He is quick to point out that the mother of the appellant is getting Rs. 2,000/- p.m. and that the brother of the appellant is duly employed in the Army and is getting gross salary of Rs. 10,232/- p.m. which is not disputed by the appellant. Accordingly, he submits that the reasoning given by the learned Single Judge is well founded and interference by this Court is not called for. However, he submitted that the submission of the learned counsel for the appellant that the elder brother of the appellant is living separately at Belgaum is not a ground to claim appointment on compassionate ground. Hence, he submits that Regulation 4(1)(a) has been rightly considered by the learned Single Judge and declined the prayer sought by the appellant which is in consonance with the relevant Regulation of the Board. Therefore, interference by this court is not called for nor the appellant has made/out any good ground to interfere in the order passed by

the learned Single Judge. Hence, the writ appeal is liable to be dismissed as misconceived.

4. Heard the learned counsel appearing for both the parties and perused the materials available on record so also the Notification issued by the Karnataka Electricity Board dated 17.04.1997 wherein Regulation 4(1)(a) reads as under:

4(1)(a) Family of a deceased Board employee shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources of all persons whether living separately or jointly including earnings of other family members shall less than the income prescribed by the Board from time to time. For calculating such monthly income, the income from family pension, interest earned on pensionary benefits shall be excluded.

From the above regulation, it is crystal clear that if the monthly income from all sources of all persons whether living separately or jointly including earnings of other family members shall not be less than the income prescribed by the Board from time to time and that for calculating such monthly income, the income from family pension, interest earned on pensionary benefits shall be excluded. In the instant case, it is not in dispute that the respondent-Corporation has prescribed Rs. 6,000/- as the cut off income and the family is having income of more than Rs. 6,000/- and therefore the appellant is not entitled for appointment on compassionate ground. It is not in dispute that the elder brother of the appellant is employed in Army and drawing gross salary of Rs. 10,232/- p.m. Therefore, no exception can be taken to the rejection of the application of the appellant. Therefore, we do not find any error or illegality in the order passed by the learned Single Judge nor we find any justification to issue any direction contrary to the Regulations Hence, the writ appeal filed by the appellant is dismissed as devoid of merits. Ordered accordingly.