
(2018) 08 CHH CK 0260
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 3291 Of 2012

Prabir Banik

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 24-08-2018

Acts Referred:

Citation : (2018) 08 CHH CK 0260

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Vikash Shrivastava, Sunita Jain

Final Decision : Dismissed

Judgement

P. Sam Koshy, J

1. The present writ petition has been preferred by the petitioner assailing the order dated 16.07.2012, passed by the respondent No.3 rejecting the application for compassionate appointment filed by the petitioner on the ground that he was over aged.

2. The brief facts which lead to the filing of the petition was that the petitioner's mother late Smt. Kalpana Banik was an employee working as a Guard (Female) at the Jagdalpur Jail. She died in harness on 20.04.2010. The petitioner applied for compassionate appointment along with all relevant documents. On due scrutiny, the petitioner was found ineligible as he had crossed the maximum age limit of 35 prescribed for grant of employment to a person with the respondents vide impugned order dated 16.07.2012. It is this order which is under challenge.

3. According to the petitioner since the claim of the petitioner for an employment was on compassionate ground, the normal age conditions prescribed

in the service regulations would not be applicable. The petitioner would be entitled for age relaxation up till the age of 45, which is the upper age limit prescribed by the State Government.

4. Counsel for the petitioner refers to the circular of the State Government dated 22.11.2007 whereby the State Government had modified the conditions attached to the compassionate appointment so far as the age relaxation is concerned and where it was held that so far as the appointments which are provided to the sons, daughters and widower, the maximum age limit inclusive of all relaxations provided, shall not be more than 45 years.

Thus, according to the petitioner since the maximum age limit permissible under the circular dated 22.11.2007 was 45 and on the date when the petitioner had applied, he was only 36 years of age, therefore the rejection of the candidature of the petitioner was bad and liable to be set-aside/quashed.

5. According to the counsel for the petitioner, the State Government vide the circular has specified the maximum age limit to be 45 and this would be inclusive of all relaxations, if any, therefore the petitioner should have been considered for appointment.

6. Per contra, the State Government submits that on the date when the petitioner had applied, undisputedly, he was aged more than 35 years of age. It was also not in dispute that the petitioner was not entitled for any sort of relaxation for the purpose of grant of relaxation in the age, in as much as the petitioner was not a member of any of the reserved category candidate, therefore the maximum age limit which otherwise is permissible for a government employee in the unreserved category is 35 years. Hence the petitioner also could have got an employment only till the age of 35 years and not beyond that and thus the rejection of the candidature of the petitioner was not justified and the same deserved interference by this Court.

7. Having heard the contentions put forth on either side and on perusal of record, all that this Court is required to consider is what would be the maximum age limit so far as an unreserved category candidate for compassionate appointment is concerned. The undisputed fact, so far as the present case is that the death of the deceased employee was on 20.04.2010. On the date of application for compassionate appointment, the age of the petitioner was more than 35 years of age. The maximum age limit for

government employment without any relaxation for an unreserved category candidate is 35 years.

8. With the aforesaid factual matrix of the case, now we need to refer to the certain provisions of the scheme for compassionate appointment

applicable in the State of Chhattisgarh. Clause 4 deals with the eligibility criteria and so far as the present case is concerned, it is clause 4.2 which is

required to be kept in mind which for ready reference is reproduced herein under:

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(5)

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9. Clause 5.3 provides for various exemptions and relaxations. One such relaxation dealing with the age criteria is concerned, the State Government

had issued a circular on 22.11.2007, which has been incorporated in the scheme for compassionate appointment and which for ready reference is

reproduced herein under:

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2- xxxxxxxxxxxx

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10. Now reading with the aforesaid relaxations so far as age is concerned, what has to be understood is that the State Government vide the said

circular has clarified the aspect of age limit and has held that in the event of the Claimant being the widow of the deceased employee, there shall be

no upper age limit for the purpose of seeking employment. This by itself means that for all other category of Claimants be it son, unmarried daughter,

widower, etc, it shall be the eligibility criteria, which is otherwise provided under the recruitment rules, which would apply. It is also clear that from

sub-clause 2 of clause 4, which has been reproduced in the preceding paragraphs. So far as sub-clause 3 of clause 5 is concerned, the said clause is

applicable upon those candidates, who are claiming employment seeking age relaxation, which is otherwise provided by the State Government under the recruitment rules i.e. if the candidates fall within any of the category provided under the different reservation policies and at the same time the Government has also put a cap that the upper age limit inclusive of all relaxations should not exceed 45. This again means that as regards the maximum age of 45 is concerned, it is for only those candidates, who are otherwise eligible for age relaxation, where the candidate is more than 35 years of age and is otherwise age barred under the recruitment rules but for the relaxations.

11. So far as the legal position for grant of compassionate appointment is concerned, it is by now well settled that any appointment for compassionate appointment has to be made by strictly adhering to the conditions stipulated in the scheme for compassionate appointment. The relevant portion of the scheme applicable in the case of the petitioner has already been reproduced in the preceding paragraphs. That, on a conjoined reading of clause 4.2 and 5.3, the only conclusion which can be drawn is that whoever moves an application for compassionate appointment, his claim would be considered subject to his fulfilling the eligibility criteria prescribed under the department's recruitment rules or unless he is entitled for any relaxations and exemptions as provided under clause 5. Thus on the conjoined reading of the aforesaid provisions i.e. clause 4.2 and 5.3 of the scheme for compassionate appointment, the safest inference which can be derived, is except for the widow, so far as an unreserved category candidate is concerned, the maximum age limit would be that which is prescribed under the recruitment rules. Unless otherwise he is entitled for any exemption or relaxation, which is provided by the State Government so far as the upper age limit is concerned from time to time.

12. Given the aforesaid facts of the case, when admittedly, the petitioner on the date of application was aged more than 35 years and he also not being entitled for any of the relaxations provided by the State Government, so far as the upper age limit is concerned. The impugned order rejecting his claim declaring him to be over aged cannot be found fault with and the writ petition thus being devoid of merits, deserves to be and is accordingly dismissed.