

(2006) 08 P&H CK 0510
In the Punjab And Haryana At Chandigarh

Puneet Yadav

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 29-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0510

Hon'ble Judges : Viney Mittal, J;H.S. Bhalla, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Viney Mittal, J.—The petitioner has approached this Court, challenging the order dated December 21,2005 (Annexure P/4) passed by the General Manager, Haryana Roadways, respondent No. 3. A further prayer has been made for issuance of a direction to the respondents to consider the case of the petitioner, for appointment against the premature retirement of father of the petitioner on medical grounds.

2. The facts, which emerge from the record, show that the father of the petitioner had joined as a conductor with Haryana Roadways with effect from June 13,1976. The petitioner has maintained that conduct of his father during his service career was always good. On a request made by the father of the petitioner on account of a problem with his vision, he was medically examined. As a result of the medical examination, the father of the petitioner was found to be medically unfit for continuation of his job and, as such, was ordered to be retired with effect from September 3,2002. The petitioner claims that as per the policy of the State government, he being one of the dependents of his father, was entitled to employment on compassionate ground. Accordingly, the father of the petitioner filed an application on January 15,2003 to provide an employment to the petitioner on compassionate basis. No action was taken by the respondents on the aforesaid request and, consequently, the father of the petitioner filed a C.W.P. No. 13649 of 2005 before this Court.

3. The aforesaid writ petition was disposed of by a Division Bench of this Court vide order dated September 1, 2005 requiring the competent authority to consider the claim of the son of Kanwar Singh (father of the petitioner) for compassionate appointment. In terms of the directions issued by this Court, General Manager, respondent No. 3 has passed a detailed and speaking order whereby the claim of the petitioner for compassionate appointment has been rejected. The aforesaid order Annexure P/4 is subject matter of challenge in the present petition.

4. The claim of the petitioner has been contested by the respondents. In the written statement filed by respondents No. 1 to 3, it has been maintained that Kanwar Singh, father of the petitioner, had joined as a Conductor in the Haryana Roadway with effect from June 13, 1976 but his work and conduct was not good during his service career. He was habitual absentee and was involved in a large number of fraud cases as per service record. On a request made by aforesaid Kanwar Singh that his eye sight had gone weak, a medical check up was conducted and on receipt of the medical report, he was ordered to be retired. The respondents have also maintained that keeping in view the fact that in reply to the show cause notice, the father of the petitioner had himself given a "no objection" to his retirement, he was granted all service benefits as admissible to him. The respondents have also maintained that as per the rules applicable to the case of a retired employee, there was no provision to grant any compassionate appointment to the dependents of the persons who had been retired on attaining medical disability.

5. We have heard the learned Counsel for the parties and with their assistance have also gone through the record of the case. The claim of the petitioner is primarily based upon the fact that his father had been prematurely retired on account of medical disability. On account of the aforesaid fact, the petitioner has relied upon the instructions issued by the State Government and has claimed that he is entitled to appointment on compassionate ground. However, in view of the stand taken by the respondents, we are satisfied that the petitioner is not entitled to any relief. The respondents have maintained that father of the petitioner, namely, Kanwar Singh during his service tenure did not maintain good conduct, nor his work was satisfactory. He was a habitual absentee. He was also involved in many cases of fraud.

6. The compassionate appointment can only be claimed by a dependent of an erstwhile employee, when the work, conduct and performance of the aforesaid employee had remained good and above board. The spirit of the policy instructions relied upon by the petitioner would definitely require that the compassionate appointment was to be offered to a dependent of such an employee who had faithfully and earnestly served the State. However, when an employee himself had not maintained good standard of reputation and performance, the dependent of such an employee could not be heard to claim any compassion. Allowing such a dependent any compassion and consequential

employment on that basis would mean a premium on the inefficiency and bad service record of the erstwhile employee.

7. In view of the aforesaid fact, we are not inclined to interfere in the present petition in favour of the petitioner. Dismissed.