

(2013) 01 PAT CK 0092
In the Patna High Court
Case No : CWJC No. 11333 of 2002

Rabindra Kumar Singh and Another

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 18-01-2013

Acts Referred:

Citation : (2013) 3 PLJR 498

Hon'ble Judges : Birendra Pd. Verma, J

Bench : Single Bench

Advocate : Maheshwar Prasad and Ful Man Singh, for the Appellant; S.N. Pathak, for the Respondent

Judgement

Birendra Pd. Verma, J.—A supplementary affidavit has been filed today on behalf of petitioner No. 1 during the course of hearing of the case stating therein that during the pendency of the present application, petitioner No. 2 Beyasi Devi, wife of deceased employee Satyadeo Singh and the mother of the petitioner No. 1, has died on 5.6.2007. A death certificate has been brought on record as Annexure-7 to the aforesaid Supplementary Affidavit. Learned counsel appearing on behalf of the respondents does not dispute the factum of death of petitioner No. 2. Under the aforesaid facts and circumstances, the prayer made by the learned counsel appearing on behalf of the petitioners for deletion of the name of petitioner No. 2 from the array of the parties is allowed. Let the name of petitioner No. 2, Beyasi Devi, be deleted from the cause title. Now, the present writ petition is confined only with respect to petitioner No. 1-Rabindra Kumar Singh.

2. This writ petition has been filed for the reliefs enumerated in paragraph-1 of the writ petition, which reads as follows:--

That this writ application is being filed for issuance of a writ in the nature of certiorari quashing the order contained in Annexure-6 and for the issuance of a writ in the nature of mandamus directing the respondent to appoint the

petitioner No. 1, on any Class-IV or Class-III employees, according to suitability and education, on compassionate ground as the father of petitioner No. 1 and husband of the petitioner No. 2 died-in-harness on 12.2.2000 on the post of mate fitter under the respondents.

3. Learned counsel for the petitioner submits that Satyadeo Singh, father of the petitioner, was working on the post of Mate fitter under the Military Engineering Service. He died on 12th February, 2000 in-harness leaving behind the petitioner and others as his heirs and legal representatives. It is the case of the petitioner that after death of the deceased employee, a petition for compassionate appointment was filed, but the claim of the petitioner was rejected by the respondent authority by order dated 31st July, 2002 (Annexure-6) on arbitrary grounds. It is submitted that the petitioner has challenged the aforesaid order before this Court in the present petition filed as far back as in the year 2002. The matter was heard on different dates by different Benches of this Court, yet the valid grievance of the petitioner has not been redressed till date. Learned counsel for the petitioner further submits that though almost 13 years have elapsed from the date of death of his father, but for that he cannot be blamed and his claim for compassionate appointment is required to be considered afresh by the respondent-authority, on appropriate direction being issued by this Court. It is also pleaded that reasons disclosed in Annexure-6, for rejecting the claim of the petitioner for compassionate appointment has not been supported by producing relevant documents by the respondent authorities, despite opportunity granted by this Court.

4. Learned counsel appearing on behalf of the respondents has opposed the prayer made on behalf of the petitioner. He has raised the question of maintainability of the present writ petition before this Court on the ground of lack of territorial jurisdiction. According to him, no cause of action has arisen in the State of Bihar, therefore, the present petition is not maintainable before this Court. In support of his above submission, he has placed reliance on a judgment of the Hon'ble Apex Court in the case of Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others, and also judgment of a Division Bench of this Court in the case of Nand Kishore Singh Vs. Union of India (UOI) and Others, . On merit, learned counsel for the respondents submits that only 5% of the total vacancies occurring in a particular year in Group-C and D category have been earmarked for being filled up by way of appointment on compassionate ground. It is pleaded that the case of the petitioner was considered, but taking into consideration all aspects, the claim of more deserving persons was accepted, and since 5% posts have already been filled up, therefore, the claim made by the petitioner could not be considered and was finally rejected by the impugned order dated 31st July, 2002 (Annexure-6).

5. In reply to the aforesaid submissions learned counsel for the petitioner submits that though the impugned order was passed within the territorial jurisdiction of West Bengal, but the order was communicated to the petitioner at

his village address. Therefore, according to the learned counsel for the petitioner, this writ petition is maintainable before this Court as partial cause of action has arisen here in the State of Bihar. In support of his above contention, he has placed reliance on judgments of this Court in the cases of Rameshwar Prasad Vs. The Union of India (UOI) and Others, , Brig. Ashok Malhotra Vs. The Union of India (UOI) and Others, and Binod Kumar Singh Vs. Union of India (UOI) and Others, .

6. From the order sheet of the present proceeding this Court finds that this matter was heard for the first time on 7.10.2002. Thereafter, matter was heard, and adjourned on different dates by the different Benches of this Court, but on all those dates, the question of territorial jurisdiction was not raised by the respondents and the matter was allowed to proceed for consideration of claim of the petitioner on merit. Since, this matter remained pending before this Court for more than 10 years, therefore, this Court is of the opinion that this matter at this belated stage cannot be rejected on the question of territorial jurisdiction. Now, the matter has to be decided on its own merit. Therefore, objection raised on behalf of the respondents about maintainability of the present writ petition before this Court is hereby overruled.

7. Now, coming to the merit of the claim of the petitioner, this Court finds that death of the father of the petitioner had taken place on 12.2.2000 and since then 13 years have elapsed. The scheme of compassionate appointment was framed by the Union of India as also by different States and Public Undertakings only for the purpose of showing compassion to the family of the deceased employee, because of sudden death of the bread earner. The object for granting compassionate appointment is to grant immediate succour to the family of deceased employee, so that the family members are not to face destitution and penury. In the present case if the petitioner and his family could survive for about 13 years after death of the deceased employee, then there is no question of allowing the prayer for compassionate appointment. The compassionate appointment cannot be claimed as a matter of right or by way of inheritance. This Court also finds that as per the relevant rules, only 5% Group-C and D vacancies have been earmarked for being filled up by making appointment on compassionate ground. The respondent No. 3 has recorded the reasons for rejecting the claim of the petitioner in his impugned order dated 31.7.2002 (Annexure-6) that the cases of the petitioner and similarly situated other persons were considered and the claim of more deserving persons was allowed, but the claim of the petitioner for appointment on compassionate ground could not be accepted since no more vacancies within the prescribed quota in that particular year in Group-C and D category were available. The petitioner has not been able to dislodge the reasoning given in the impugned order, as contained in Annexure-6.

8. For the reasons recorded above, as also due to passage of time, this Court is not inclined to interfere with the impugned order dated 31st July, 2002

(Annexure-6), and to make any further probe in this matter. In the result, the application fails and is, accordingly, dismissed. Parties are left to bear their own costs.