
(2022) 01 JH CK 0002
In the Jharkhand High Court
Case No : Writ Petition (S) No. 5363 Of 2011

Rabindra Murmu	Vs	APPELLANT
State Of Jharkhand And Others		RESPONDENT

Date of Decision : 06-01-2022

Acts Referred:

Citation : (2022) 01 JH CK 0002

Hon'ble Judges : Anubha Rawat Choudhary, J

Bench : Single Bench

Advocate : Manoj Tandon, Rohit

Final Decision : Dismissed

Judgement

Anubha Rawat Choudhary, J

1. Heard Mr. Manoj Tandon, learned counsel appearing on behalf of the petitioner.
2. Heard Mr. Rohit, learned counsel appearing on behalf of the respondents â?" State.
3. The present petition has been filed challenging the decision contained in Memo No.173 dated 23.05.2011, so far as it relates to the petitioner whereby the application of compassionate appointment of this petitioner has been rejected as time barred.
4. The foundational facts of the case are not in dispute.
5. The father of the petitioner died in harness on 25.07.1995 working and posted as Assistant Teacher, Primary School in the District of Pakur. The genealogical table of the petitioner was prepared on 12.09.1995. It is the case of the petitioner that the petitioner had submitted his application for compassionate appointment as back as on 02.05.2000 which was within the period of 5 years, but on 26.07.2010, the petitioner was directed by the

respondent no.3 to submit the original educational certificate, and the application was not entertained also on the ground that the same was not routed through the proper channel. The petitioner had filed a representation dated 04.10.2010 indicating that he had also moved earlier for compassionate appointment. The educational qualification of the petitioner was submitted on 05.01.2011. On 23.05.2011, the application for compassionate appointment of the petitioner was rejected as time barred by mentioning that the petitioner had filed the application only on 01.10.2010. From perusal of the records of this case, it appears from Annexure â?" 8, which is said to be the application form for compassionate appointment filed on 02.05.2000, the date of birth of the petitioner has been declared as 17.09.1984 which is not in dispute.

6. Learned counsel for the petitioner has assailed the impugned order of rejection of his application for compassionate appointment on the ground that the same suffers from apparent error on record in view of the fact that the petitioner had already submitted the application on 02.05.2000, which is contained in Annexure â?" 8 of the writ petition. The learned counsel submits that the application on 02.05.2000 was within the prescribed period of 5 years and otherwise the petitioner was entitled for compassionate appointment and therefore, the impugned order rejecting the application for compassionate appointment is fit to be set aside.

7. Learned counsel appearing on behalf of the State, on the other hand, has opposed the prayer and has submitted that the initial application for compassionate appointment dated 02.05.2000 was neither complete nor through proper channel and accordingly, the same was never entertained and accordingly not placed before the appropriate authority for consideration and the said improper application cannot be said to be an application for compassionate appointment in the eyes of law. He submits that the application is to be submitted as per the provision of the law.

8. He has further submitted that the application for compassionate appointment was subsequently filed on 01.10.2010 and at that time, the case of the petitioner for grant of compassionate appointment had become time barred.

9. Learned counsel has also submitted that though the initial application of the petitioner for compassionate appointment was not entertained, but the date of birth has been indicated as 17.09.1984 and accordingly, the petitioner

was 16 years on 02.05.2000 and no minor can be offered compassionate appointment. He has also submitted that the petitioner did not become major within 5 years from the date of death of his father i.e., from 25.07.1995 and therefore, otherwise also, the petitioner is not entitled for compassionate appointment. Learned counsel has also referred to a judgement passed by this Court in L.P.A. No.438 of 2018 (The State of Jharkhand and Ors. Vs. Bahabiti Marandi) decided on 16.09.2020 to submit that no minor can be offered compassionate appointment under the Circulars issued by the State Government and applicable in the State of Jharkhand.

10. In response, the learned counsel for the petitioner has submitted that the impugned order has not been passed on the ground that the petitioner was not qualified so far as the age is concerned, but the application has been rejected only on account of being time barred. However, it is not in dispute that if the date of birth of the petitioner is taken as 17.09.1984 as declared by the petitioner himself in Annexure â?" 8, the petitioner was a minor even upon expiry of five years from the date of death of his father. It is further not in dispute that the application for compassionate appointment has to be filed within a period of five years from the date of death.

11. After hearing the learned counsel for the parties, this Court finds that the original application for compassionate appointment dated 02.05.2000 was not only incomplete on account of want of essential documents, but was also improperly filed as the same was not routed through the District Education Officer, Pakur and accordingly, the communication of the same was given to the petitioner vide letter dated 26.07.2010 as contained in Annexure â?" 3 and the application was not entertained. There is no illegality on the part of the respondents in refusing to entertain the application dated 02.05.2000. Otherwise also, on the date of the initial application, the petitioner was still a minor and therefore, the petitioner was not entitled to compassionate appointment as admittedly, no minor can be offered compassionate appointment. In the judgment passed by this Court in L.P.A. No.438 of 2018 (supra), it has been categorically held by a detailed judgement that no minor can be offered compassionate appointment under the Circulars applicable in the State of Jharkhand.

12. Further, the petitioner continued to be minor even upon expiry of 5 years from the date of death of his father i.e., 25.07.1995. The petitioner

thereafter filed another application on 01.10.2010 and the said application was rightly rejected as time barred.

13. In view of the aforesaid findings, there being no merits in the present writ petition, which is hereby dismissed.

14. Pending interlocutory application, if any, stands closed.