

(2009) 12 MP CK 0054

In the Madhya Pradesh High Court

Case No : Writ Petition No. 257 of 2009 (S)

Raghvendra Rathore

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 02-12-2009

Acts Referred:

Citation : (2010) 2 MPLJ 70

Hon'ble Judges : S.S. Kemkar, J

Bench : Single Bench

Advocate : Smt. Meena Chaphekar, for the Appellant; S.S. Garg, Government Advocate, for the Respondent

Judgement

Shantanu Kemkar, J.

With consent heard finally.

Petitioner's father Devilal Rathore was working on the post of Head Clerk-cum-Accountant in the Panchayat and Social Justice Department of the State Government. He died in harness on 2-9-2007. Petitioner submitted an application seeking his compassionate appointment. The third respondent Deputy Director forwarded the said application for consideration before the fourth respondent Commissioner, Panchayat and Social Justice Department, Bhopal vide letter dated 28-11-2007 (Annexure P-2). The fourth respondent vide letter dated 14-12-2007 (Annexure P-3) informed the Collector Mandsaur that no post for appointment on compassionate appointment is available.

Thereafter vide letter dated 20-3-2008 (Annexure P-4) the petitioner was informed that if he is inclined to accept the appointment on the post of Contract Teacher (Samvida Shala Shikshak) he may give his consent for the same. The petitioner gave his consent for the same. Accordingly his case was forwarded by Collector Mandsaur to the District Education Officer Mandsaur vide letter dated 2-4-2008 (Annexure P-5).

In the meanwhile since no order of appointment on the post of Contract Teacher was issued in favour of the petitioner he submitted an application dated 18-6-2008 stating therein that he is not inclined to accept the appointment on compassionate basis on the post of Contract Teacher and instead his case be considered for giving him appointment on the post of Patwari.

The Deputy Collector wrote a letter dated 13-8-2008 (Annexure P-8) to the Chief Executive Officer, Janpad Panchayat Mandsaur for returning the papers relating to the petitioner's case for compassionate appointment, so that the petitioner's case can be considered for compassionate appointment on the post of Patwari. Thereafter on the basis of the approval of the Collector the petitioner's claim for grant of compassionate appointment on the post of Patwari was forwarded for further action vide letters Annexure P-9 and P-10.

On 24-11-2008 (Annexure P-II) the petitioner was informed that only for the dependents of Revenue Inspectors and Patwaris the exemption is granted from appearing in the examination for the post of Patwari without Patwari training and as such he cannot be granted compassionate appointment. Aggrieved the petitioner submitted representation Annexure P-12 and has filed this petition.

According to the petitioner in view of the Circular dated 22-1-2007 (Annexure P-13) providing condition for making appointment on compassionate basis he is entitled for being appointed on the various posts mentioned in the circular including the post of Patwari. He submits that he was and is ready and willing to go for training and to appear in the examination but he has not been permitted to do so.

. The respondents have filed reply and have stated that in view of the circular Annexure R-I the petitioner is not entitled for being granted compassionate appointment on the post of Patwari. According to the respondents only the dependents of Revenue Inspectors and Patwaris can be appointed on the post of Patwari on compassionate basis.

Having gone through the contentions raised by the learned counsel for the parties and the documents including the policy dated 22-1-2007 (Annexure P-13) providing for compassionate appointment even on the post of Patwari and the documents Annexure R-I on which reliance has been placed by the respondents in my considered view the rejection of the petitioner's claim for compassionate appointment for the reason that appointment for the post of Patwari on compassionate basis can only be extended in favour of the dependents of Revenue Inspector and Patwaris is wholly misconceived and is based on misinterpretation of Annexure R-I.

On a close reading of Annexure R-I it is clear that on the death of Revenue Inspectors and Patwaris their legal representatives are not required to undergo Patwari training for appearing in the competitive examination provided they fulfil requisite qualifications. Thus, the rejection of the petitioner's claim on the ground that for compassionate appointment the post of Patwari is available only

for the dependents of the Revenue Inspector and Patwari is illegal. On the other hand in view of Clause 5 of the policy dated 22-1-2007 (Annexure P-13) the compassionate appointment is permissible to the dependent of the deceased Govt, employee even on the post of Patwari.

In view of the aforesaid, the order of rejection of the petitioner's claim (Annexure P-11) cannot be sustained. The respondents are directed to reconsider the petitioner's claim for compassionate appointment on the post of Patwari in terms of the Policy dated 22-1-2007 (Annexure P-13) and to pass appropriate orders in that regard in accordance with law within three months from the date of receipt of copy of this order.

Cc within seven days.