

(1998) 02 J&K CK 0025
In the Jammu And Kashmir High Court
Case No : S. Writ Petition No. 1232/96

Reeka Devi

APPELLANT

Vs

State of Jammu & Kashmir

RESPONDENT

Date of Decision : 04-02-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) KashLJ 282 : (1998) 3 SCT 85

Hon'ble Judges : T.S.Doabia, J

Bench : Single Bench

Advocate : Y.P.Kotwal, D.S.Chauhan, Advocates appearing for the Parties

Judgement

1. The circumstances under which this petition has come to be filed be noticed.
2. The petitioner seeks appointment on compassionate grounds. It is her case that her father died on 21/07/1988. The petitioner applied for appointment on compassionate ground in the year 1995. This was so done after the petitioner acquired requisite educational qualification (matriculation). The application seems to have been submitted somewhere in the year 1995 (no date is given there upon). A letter by which the application was forwarded is dated 19th of October, 1995.
3. The claim of the petitioner was rejected on the ground that the petitioner could seek appointment within six months from the date of death of the employee. It is submitted that the application was submitted after a period of six months, therefore, the appointment could not be made.
4. It be seen that the Supreme Court of India in case reported as Haryana State Electricity Board and Anr Versus Hakim Singh 1997(8) Supreme 518 has observed as under

This court has considered the scope of the aforesaid circulars in Haryana State Electricity Board V. Naresh Tanwar and Anr 1996(2) JT

542:1996(2) Supreme 552.

In that case widow of a deceased employee made an application almost twelve years after the death of her husband requesting for

accommodating her son in the employment of the Board, but it was rejected by the Board. When she moved the High Court the Board was

directed to appoint him on compassionate grounds. This Court upset the said direct jobs of the High Court following two earlier decisions

rendered by this Court, one in Umesh Kumar Nagpal v. State of Haryana & ors, 1994(4) SCC138, the other in Jagdish Prasad v. State of Bihar

& Anr 1996(1) SCC 301. In the former a Bench of two judges has pointed out that "the whole object of granting compassionate employment is to

enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for the post held by the

deceased." In the latter decision which also was rendered by a Bench of two judges, it was observed that "the very object of appointment if a

dependant if the deceased employee who die in hardship is to relieve unexpected immediate hardship and distress caused to the family by sudden

demise of the earning member of the family." The learned Judges pointed out that if the claim of the dependant which was preferred long after the

death of the deceased employee is to be countenanced it would amount to another mode of recruitment of the dependant of the deceased

government servant "which cannot be encouraged, de hors the recruitment rules." "It is clear that the High Court has gone wrong in giving a

direction to the Board to consider the claim of the respondent as the request was made far beyond the period indicated in the circular of the Board

dated 1.10.1936. Respondent if he is interested in getting employment in the Board, has to pass through the normal route now." 5. In view of the

above position of law as enunciated by the Supreme Court of India, it is not possible to issue any direction to the state to make appointment of

the petitioner. Learned counsel for the petitioner submits that there is a provision for relaxation. To this limited extent a direction is given to the

respondent State to consider the case of the petitioner. If relation can be given then the needful may be done. The discretion would, however,

purely rests on the respondentState. This petition is disposed of with the observation made above.