

(2012) 11 JH CK 0009
In the Jharkhand High Court
Case No : Writ Petition (S) No. 6459 of 2003

Saira Khatoon

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-11-2012

Acts Referred:

Citation : (2013) 1 JLJR 516

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : V. Shivnath, for the Appellant;

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the petitioner. The petitioner has preferred this writ petition for directing the respondents for appointment on compassionate basis in place of her husband late Abdul Rashid, who died-in-harness on 21.2.1993 while working on the post of Orderly (Anusewak) in the Tenughat Dam Division of the Water Resources Department, Government of Jharkhand.

2. It is submitted that when the minor daughter preferred an application for appointment on compassionate ground, the same was not being considered and daughter of late Abdul Rashid had approached this Court in W.P.(S) No. 3401 of 2002. This Court while dismissing the said writ petition observed that if the widow had applied within time on 28.4.1993, she can pursue the matter and the said order will not affect her claim. The said writ petition was disposed of on 10.7.2003 (Annexure-1). The present petitioner (Widow) pursued her representation and on her failure to get appointment, she was compelled to move this court in the present writ petition. The representation of the petitioner has been rejected, which has been brought on record vide Annexure-6 being Memo No. 348 dated 25.5.2005 brought on record by way of I.A. No. 1729 of 2006, which has earlier been allowed vide order dated 7.9.2012. Learned counsel

for the petitioner assailed the impugned order by submitting that in the matter of Class-IV appointment, petitioner's claim has been rejected on the ground that she does not fulfill the criteria and has not passed eighth class examination. The matter of grant of compassionate appointment is to provide immediate succor to the dependent of the deceased as the bread earner, who died-in-harness.

3. Counsel for the respondents has opposed the prayer and submits that the death occurred in the year 1993 from which much time has passed and, therefore, the present claim of the petitioner should not be entertained in view of the settled law delivered by the Hon'ble Supreme Court that the matter of compassionate appointment are exception to the general rule where equality of opportunity in the matter of public employment is to be guaranteed to all similarly placed persons. The family having survived for 19 long years after the death of bread earner, therefore, this exception should not be considered for appointment on compassionate ground.

4. I have heard learned counsel for the parties and gone through the relevant materials including the impugned order. Admittedly the death of the bread earner occurred on 21.2.1993. The petitioner's daughter, thereafter, pursued the matter for compassionate appointment and widow was, however, given liberty to pursue her own case in the writ petition preferred in the year 2002 by her daughter (Annexure-1). The petitioner appears to be lacking in the requisite of Educational Qualification for the Class-IV Post as it would appear from the impugned order. In any case, if petitioner and dependent of the deceased late Abdul Rashid, who was employee in the Tenughat Dam Division of the Water Resources Department, erstwhile Government of Bihar, have survived for 19 long years in absence of any employment by the State, no case for grant of compassionate appointment is made out as per well settled position in law whereby the same is meant to provide immediate succor to the distressed family on the death of the bread earner.

5. In the circumstances, after 19 long years, this Court does not consider it a fit case for directing the respondent to grant compassionate appointment, therefore, the impugned order cannot be found fault with. In the circumstances, this writ petition is devoid of merit and is, accordingly, dismissed.