(2015) 09 KAR CK 0349

In the Karnataka High Court

Case No : Writ Petition No. 34131 of 2014 (S-KSRTC)

Sandesh APPELLANT

Vs

The Managing Director, Karnataka State Road Transport Corporation and Others RESPONDENT

Date of Decision : 07-09-2015

Acts Referred:

Citation : (2015) 09 KAR CK 0349

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Aravind H., for the Appellant; H.R. Renuka, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J—In this case, the petitioner has called in question the validity of the endorsement at Annexure-H dated 23.01.2014/07.02.2014 whereby the second respondent has rejected the application of the petitioner for appointment on compassionate grounds. The petitioner has also challenged the validity of the circular at Annexure-R dated 23-09-1999 providing for appointment on compassionate grounds.

2. The petitioner is the third son of Lakshminarayana. Lakshminarayana was working with the respondent - Corporation as a Driver. He died on 06.09.2013 while in service. The application of the petitioner for appointment to the post of Junior Assistant cum Data Entry Operator in the Corporation on compassionate grounds has been rejected by the second respondent.

3. Learned counsel for the petitioner would contend that the father of the petitioner died on 6.9.2013 in harness. He is survived by his wife Smt. Kamala, three sons namely, Subramanya, Rajesh, Sandesh - the petitioner herein and a daughter by name Asha. Asha died on 17.05.2015. The first son - Subramanya is employed with M/s. Royal Sundaram Alliance Insurance Company Limited. His

gross salary is Rs. 38,328/- and take home salary is only Rs. 16,000/-. He is married and has two children. He is residing separately at Bangalore. He has to pay the house rent as also the school fee of his children. In the circumstances, second respondent is not justified in holding that the petitioner is not entitled for appointment on compassionate grounds. It is further submitted that the modified circular at Annexure-R is also illegal.

4. On the other hand, learned Advocate appearing for the respondent -Corporation submits that the petitioner is not entitled for appointment on compassionate ground. One of his family members namely, Subramanya, son of the deceased is employed in M/s. Royal Sundaram Alliance Insurance Company Limited and his gross salary is Rs. 38,328/- for the month of December 2013. She has produced a copy of the pay slip of Mr. Suramanya H. along with a memo. It is submitted that the object of compassionate appointment is to enable the family to get over financial crisis which it faces at the time of the death of the sole bread winner. The compassionate employment cannot be claimed as a matter of right. The circular at Annexure-R is valid and legal. She prays for dismissal of the writ petition.

5. The material facts are not in dispute. Lakshminarayana was working with the respondent -Corporation as a Driver. He died in harness. He is survived by his three sons and a daughter. His daughter died on 17.05.2015. Surbamanya is admittedly employed with M/s. Royal Sundaram Alliance Insurance Company Limited. His gross salary for the month of December 2013 is Rs. 38,328/- and net salary after deduction is Rs. 35,718/-.

6. The circular at Annexure-Q provides for employment to the dependants of the deceased employees of the Corporation on compassionate grounds. This circular has been amended by the circular at Annexure-R dated 23.9.1999. The amended circular is as under:

"1. Such appointment shall be provided only once to one member of the family of the deceased employee of the Corporation, if such family is in financial crisis or destitution. The family shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources is less than the total emoluments including Dearness Allowance, House Rent Allowance and City Compensatory Allowance admissible at Bangalore on the average of the minimum and maximum of the pay scale of the post of "Assistant" in the Corporation, as on the date of application for compassionate appointment. For calculating such monthly income, recurring monthly income from all sources other than Family pension, lumpsum pensionary benefits and the interest earned thereon of the family for the purpose of this rule shall be computed by the Head of the office or the Heard of the Department or the Appointing Authority, on the basis of the last Assets and Liability returns filed by the deceased Corporation Servant and if, for any reason, it is not available, on the basis of a Certificate of income issued by a Revenue Officer not below the rank of Tahasildar.

2. In case any member of the family of the deceased employee of the Corporation is employed in any State or Central Government Service or a Public or Private Sector undertaking or a private establishment, the monthly income of the family shall be taken into consideration on the basis of the certificate issued by his/her employer and in case such a member is self-employed, on the basis of the Certificate issued by a Revenue Officer not below the rank of Tahasildar.

3. The Security investigation shall be conducted only to ensure the bonafides of the dependent of the deceased employee and not for verification of the income of the family of the deceased employee."

7. The aforesaid circular clearly states that the appointment shall be provided only once to one member of the family of the deceased employee of the Corporation if such family is in financial crisis or destitution. The family shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources is less than the total emoluments including Dearness Allowance, House Rent Allowance and City Compensatory Allowance admissible at Bangalore on the average of the minimum and maximum of the pay scale of the post of "Assistant" in the Corporation as on the date of application for compassionate appointment. It is also clear that in case any member of the family of the deceased employee of the Corporation is employed in any State or Central Government Service or a Public or Private Sector undertaking or a private establishment, the monthly income of the family shall be taken into consideration on the basis of the certificate issued by his/her employer and in case such a member is self-employed, on the basis of the certificate issued by a Revenue Officer not below the rank of Tahasildar.

8. In the instant case, the post of the Assistant in the Corporation carries a pay scale of Rs. 28,117.50/-. The salary drawn by Subramanya, the elder brother of the petitioner is Rs. 38,328/-. In view of the circular at Annexure-R, the petitioner is not entitled for appointment on compassionate grounds.

9. It is settled that appointment on compassionate grounds is not a source of recruitment, but merely an exception to the requirement regarding appointments being made on open invitation of application on merit. Basic intention is that on the death of the employee concerned, his family is not deprived of the means of livelihood. The object is to enable the family to get over sudden financial crisis. The very object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning members of the family. The modified circular at Annexure-R is in conformity with the object of appointment on compassionate grounds.

10. In the instant case, the elder brother of the petitioner is employed in a private sector and drawing a gross salary of Rs. 38,328/- and after deduction the net salary is Rs. 35,718/-. In the circumstances, question of appointment of the petitioner on compassionate grounds does not arise. No illegality whatsoever is

pointed out in the circular at Annexure- R dated 23.09.1999. The writ petition is devoid of merits. It is accordingly dismissed. No costs.

