

(2022) 06 SHI CK 0072

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 2683 Of 2015

Sanjay Kumar

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 23-06-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 06 SHI CK 0072

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : Sanjeev K. Suri, Balram Sharma, Vijay Arora

Final Decision : Disposed Of

Judgement

Sandeep Sharma, J

1. By of present writ petition filed under Article 226 of the Constitution of India, petitioner has prayed for following main reliefs:

"a. That the Hon'ble Court may kindly be pleased to issue the direction to respondents to consider the case of the petitioner and settle his grievances.

b. That direction be issued to consider the case of the petitioner for the compassionate appointment in the respondent corporation keeping in view the peculiar facts and circumstances."

2. Precisely, facts of the case as emerge from the record, are that father of the petitioner namely Sh. Shakti Prasad, was working with National Hydro Power Corporation as ex-mechanic (special) and was posted at Chamera Power Station-I, District Chamba, Himachal Pradesh. During his aforesaid posting, he was deputed on tour for a period of one month with equipment (Tata Hitachi Excavator) to Baira Siul Power Station. While on duty at aforesaid place of posting, Shakti Prasad got ill and unfortunately, died on 26.12.1989 as is evident from the death certificate placed on record as Annexure R-1 with the reply filed

by respondents No. 2 and 3. After the death of above named employee, his wife Smt. Geeta Devi, mother of the petitioner applied for compassionate appointment, but her representation was rejected. Being aggrieved on account of rejection of the representation, mother of the petitioner Smt. Geeta Devi alongwith elder brother of the petitioner, approached this Court by way of CWP No. 607 of 1996, which ultimately came to be disposed of vide order dated 17.12.2001 (Annexure P-5), with direction to the respondents to consider one of the petitioner for appointment on compassionate grounds, however, representation made by family members of the petitioner in terms of aforesaid judgment passed by this Court was rejected vide order dated 27.9.2013 (Annexure P-3), wherein respondents claimed that since late Mr. Shakti Prasad succumbed to natural death on 26.12.1989 due to illness while on tour to Baira Siul Power Station and compassionate appointment can only be given due to death on account of accidents arising out of and in the course of employment, compassionate appointment as is being prayed for cannot be granted. After passing of the aforesaid order dated 27.9.2013, petitioner being son of deceased employee Shakti Prasad represented afresh, but prayer made on his behalf for compassionate appointment was rejected on the ground that since deceased father of the petitioner died of natural death, he is not entitled to compassionate appointment. Claim of the petitioner is that his father died during the course of the employment and as such, being one of the Legal Heirs, he is entitled to appointment on compassionate grounds. In the aforesaid background, petitioner has approached this Court in the instant proceedings, praying therein for reliefs as have been reproduced herein above.

3. Respondents in their reply have admitted the facts as narrated herein above. Careful perusal of reply filed by the respondents reveals that as per policy dated 15.7.1986, compassionate appointment could only be given in the case, where an employee dies/died on account of accident arising out of and in the course of employment, but subsequently, some settlement took place inter-se management of National Hydro Power Corporation and Apex Level Union on 10.10.1991, wherein it was decided to extend the scheme for compassionate appointment to the families of all the workmen, who dies/died while in service due to natural death. Respondents have stated in the reply that though in terms of settlement dated 10.10.1991, family of the deceased employee Shakti Prasad became entitled for compassionate appointment, but since cut-off date of applicability of settlement dated 10.10.1991, is 1.1.1990, case of the petitioner, whose father expired on 20.12.1989 is not covered by the aforesaid policy. Now it is not in dispute that family of an employee, who dies of natural death during employment, is also entitled for compassionate appointment, but application in those cases where employees died on or before 1.1.1990 shall not be considered. Since in the instant case, father of the petitioner died on 26.12.1989 i.e. few days before the cut-off date, prayer made on behalf of the petitioner is not being considered. Once respondents have now decided to offer appointment on compassionate grounds to the families of those deceased employees, who die

or had died of natural death during employment, ground raised on behalf of the respondents while rejecting the case of the petitioner is not sustainable in the eye of law. Case of the respondents is that petitioner is not covered under the settlement dated 10.10.1991, wherein admittedly cut-off date is/was 1.1.1990, but such condition does not only appear to be harsh, but same is also without any rationale. Otherwise also, there appears to be no reasonable classification, as has been attempted to be carved out by the respondents by introducing new policy on the basis of settlement dated 10.10.1991, whereby families of all the employee(s), who dies/died of natural death, have been made eligible for appointment on compassionate ground. Very purpose and object of the compassionate appointment is to provide immediate respite to the family members of an employee, who dies in harness, but in the case at hand, respondents, interestingly, provided in earlier policy provision for compassionate appointment to the families of those employees also, who die/died in the accident, but now though subsequently in terms of settlement arrived inter -se management and Union, even employees who die/died of natural death during employment have been given the benefit of such policy, but from one particular date. Since petitioner never laid challenge to the afore policy framed by the respondents for compassionate appointment as detailed herein above, this Court has restrained itself from returning any finding with regard to same on merits, but definitely finds it a fit case for issuing direction to the respondents to consider and decide the case of the petitioner afresh in light of the subsequent policy prepared on the basis of settlement dated 10.10.1991, without insisting upon cutoff date.

4. Consequently, in view of the above, present petition is disposed of with direction to the respondents to consider and decide the representation having been filed by the petitioner, seeking therein compassionate appointment afresh in terms of the subsequent policy framed in terms of settlement dated 10.10.1991 expeditiously, preferably within four weeks, but without insisting on cutoff date. Liberty is reserved to the petitioner to approach appropriate court of law in the appropriate proceedings, if he still remains aggrieved. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.