
(2005) 01 AHC CK 0012
In the Allahabad High Court

Sanjay Kumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 25-01-2005

Acts Referred:

Citation : (2005) 6 AWC 6354

Hon'ble Judges : A.N. Varma, J

Bench : Single Bench

Advocate : R.A. Misra and A.K. Misra, for the Appellant; Syed Husain, for the Respondent

Final Decision : Dismissed

Judgement

A.N. Varma, J.—The father of the Petitioner who was in employment with the opposite parties, died in harness on 10.10.1995, leaving behind his widow, the Petitioner, his two sisters and Petitioner's grand-mother. At the time when his father died the Petitioner was a minor. Upon attaining the age of majority he moved an application in September, 1997 for appointment on compassionate grounds. Vide order dated 16.12.1999 (Annexure-4) his case for compassionate appointment was rejected on the ground that his mother was already in service with the opposite parties as a safai wala. The rejection order was communicated to him vide order dated 24.12.1998 as contained in Annexure-3. Through the present writ petition the Petitioner has assailed the aforesaid two orders.

2. During the pendency of the writ Petition on 19.2.2003 this Court directed the opposite parties to reconsider the case of the Petitioner afresh by a speaking and reasoned order. Pursuant to the directions given by this Court, the opposite parties have considered the Petitioner's representation and vide order dated 30.4.2003 rejected the same on the ground that the Scheme framed by opposite parties for compassionate appointment provide for a ceiling of five per cent for making compassionate appointment against regular vacancies. According to the opposite parties since there were 30 applications considered for compassionate appointments, and only four vacancies fell under 5% quota for such

appointments and since the Petitioner did not fall within the criteria as prescribed, therefore, his case was negated and the representation preferred by him was rejected. Through an application for amendment the said order dated 30.4.2003 has also been made subject matter of challenge in the instant writ petition.

3. I have heard the learned Counsel for the Petitioner Shri R. A. Misra and Shri Syed Husain who appears for opposite parties.

4. The learned Counsel for the Petitioner strenuously argued that the order deciding the representation is manifestly illegal and has been passed without affording him an opportunity of being heard. According to him when his father died, he was only a minor and his mother was already in employment, therefore, upon his attaining the age of majority he having moved an application for compassionate appointment, the same could not have been rejected merely on the ground that the mother of the Petitioner was in employment. He further submits that since the amount that was received by his mother upon the death of his father was spent in the marriage of his sisters, therefore, the family was again left with nothing for survival.

5. The counsel for the opposite parties submitted that in order to make compassionate appointment certain procedure has been prescribed under a scheme to be followed while considering an application for such appointment which in no manner is either discriminatory or arbitrary. According to him as per guidelines provided with regard to compassionate appointment certain marks are required to be allotted under various heads and the Petitioner having secured 66 marks in comparison to other applicants, his case being below the cut-off marks which was 86, as such the same was rightly not considered and the representation was accordingly rejected. He further submits that in view of the fact that 5% vacancies have been allocated for the candidates who seek compassionate appointment and there being 30 such appointments, therefore, the compassionate appointment was to be made within the quota prescribed and the Petitioner having not fallen under the said quota was rightly not extended appointment on compassionate grounds.

6. As would appear the validity of the scheme pertaining to the compassionate appointment which notified point system under various heads, namely:

- (i) family pension
- (ii) terminal benefits
- (iii) monthly income of earning members and income from property
- (iv) movable/immovable property
- (v) No. of dependants
- (vi) No. of unmarried daughters

(vii) No. of minor children

(viii) left over service.

is not under challenge in the instant writ petition. The case of every such candidate claiming compassionate appointment, has to be considered looking to the circumstances of each individual who has to pass through the tragedy which falls upon them consequent upon the death of the bread earner. Various factors have to be considered and are to be taken into account while considering the cases of each candidate. This appears to have been laid down in order to quantify the level of compassion in each case for making a comparatively balanced and objective assessment. The points are awarded in each case strictly in accordance with the guidelines and the cases are recommended in order of merit equal to the number of vacancies available under 5% quota prescribed. The opposite parties while considering the Petitioner's representation has adhered to the guidelines provided under the said scheme and the same does not run contrary to the principle and procedure prescribed.

7. So far as the question of providing an opportunity is concerned the same does not arise as the case of the Petitioner has been considered strictly in accordance with the guidelines provided under the said Scheme.

8. In view of the aforesaid, there is no element of arbitrariness or illegality in the impugned orders deciding the Petitioner's representation. The writ petition in the circumstances fails and is accordingly dismissed.