
(2002) 02 JH CK 0064

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1013 of 2002

Sankar Pradhan

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-02-2002

Acts Referred:

Citation : (2002) 02 JH CK 0064

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : V. Shivnath, A. Sinha and S. Topno, for the Appellant; JC to AAG, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—The petitioner in the instant writ application has assailed the order as contained in Memo No. 3177 dated 22.9.2001 whereby the claim of the petitioner for appointment on compassionate ground has been rejected and further for a direction to the respondents to appoint the petitioner on compassionate ground. A copy of the order dated 22.9.2001 has been annexed as Annexure 8 to the writ application.

2. The brief fact of the case is that one Amar Bahadur Pradhan was in service of Bihar Military Police as Sub-Inspector. The said Amar Bahadur Pradhan while in service died some time in the month of June, 1998. Petitioner's case is that Amar Bahadur Pradhan was issueless and the petitioner's natural mother had died when the petitioner was only 1-1/2 years old. Said Amar Bahadur Pradhan and his wife approached the natural father of the petitioner and expressed their desire to adopt the petitioner. Accordingly the formalities of adoption were performed and petitioner was adopted by Amar Bahadur Pradhan and his wife on 3.7.1980. Since then the petitioner said to have lived with the adopted father Amar Bahadur Pradhan and he was given education upto class VII in the school where Amar Bahadur Pradhan shown as his father. It is stated that after death of Amar Bahadur Pradhan, which took place in June. 1998, the mother of the

petitioner approached the Commandant of Bihar Military Police for consideration of the case of the petitioner for appointment on compassionate ground. The petitioner submitted all the required documents but the claim of the petitioner was rejected by Order dated 16.11.2000 by the Director General-cum-Inspector General of Police, Bihar, Patna. The petitioner again approached the respondent. Deputy Inspector General of Police, Jharkhand on 24.5.2001 to consider the case of the petitioner. When the case of the petitioner was not considered, he filed WP (S) No. 3536/2001 for a direction to the respondents to consider his case for appointment on compassionate ground. The writ application was disposed on 6.8.2001 directing the respondent namely, Commandant, Jharkhand Armed Police, Ranchi to consider the case of the petitioner for appointment on compassionate ground after determining the question as to whether the petitioner is eligible and entitled for appointment on compassionate ground on the death of Amar Bahadur Pradhan. The claim of the petitioner was considered and rejected by the respondents by passing the impugned order as contained in Memo No. 3177 dated 22.9.2001.

3. Mr. V. Shivnath, learned counsel appearing for the petitioner assailed the impugned order as being illegal and wholly without Jurisdiction. Learned counsel submitted that the impugned order has been passed completely in violation of the direction of this Court in the order passed in WP (S) No. 3536/2001 as no opportunity of hearing was given to the petitioner. Learned counsel submitted that the respondents acted arbitrarily in rejecting the case of the petitioner and failed to give appointment only by creating an artificial distinction between son and adopted son. Learned counsel in this connection relied upon a Division Bench judgment of the Patna High Court in the case of State of Bihar and Ors. v. Laltush Kumar, 2001 (3) PLJR 136.

4. Before appreciating the case of the petitioner, I would like to first refer some of the relevant paragraphs of the writ petition. The petitioner's case is that after the death of Amar Bahadur Pradhan the petitioner through his mother approached for appointment on compassionate ground. The application was, processed and was finally forwarded to the Director General cum inspector General of police, Bihar. Patna. The said application was rejected on 16.11.2000 as the petitioner failed to submit any document with regard to his claim as adopted son of deceased Amar Bahadur Pradhan. Paragraphs 13. 14 and 15 of the writ petition are worth to be reproduced hereinbelow :--

"13. That despite the opinion of the Government Pleader the petitioner's case for compassionate appointment was not considered and the mother of the petitioner was informed by order as contained in Memo No. 6472 dated 16.11.2000 that the Director General-cum-Inspector General of Police, Bihar. Patna has purported to reject that case.

True copy of letter No. 6472 dated 16.11.2000 is annexed hereto and marked as Annexure-6 to this writ application.

14. That pursuant to the creation of Jharkhand State under Reorganisation Act State Government has reconstituted Bihar Military Police-I as Jharkhand Armed Police. The mother of the petitioner in view of the opinion and the materials on record has again represented to the Deputy Inspector General of Police (Karmik Vibhag at Jharkhand) on 24.5.2001 to consider the case of the petitioner and take a final decision in the matter.

15. That the petitioner states and submits that when the case of the petitioner was not considered the petitioner filed a writ petition WP (S) No. 3536 of 2001 for the relief to consider the case of the petitioner for employment on compassionate ground under the policy of the State Government as contained in letter No. 3/Karmik/11946 dated 30.11.1984." 5. It is, therefore, evident that the petitioner was aware about the tact that his claim for appointment on compassionate ground was rejected by the Director General-cum-Inspector General of Police. Bihar, Patna vide order dated 16.11.2000. In spite of that after bifurcation of the State and creation of Jharkhand the petitioner again approached the Deputy Inspector General of Police (karmik Vibhag) at Jharkhand on 24.5.2001. Simultaneously, the petitioner also moved this Court in WP (S) No. 3536/2001 with a case that the petitioner's claim was not being considered by the Deputy Inspector General of Police. Jharkhand. In the facts of the case this Court directed the Deputy Inspector General of Police to take a decision in the matter. In compliance of the aforesaid direction the respondents rejected the claim mainly on the ground that the case of the petitioner was considered and was finally rejected by the Inspector General of Police. Bihar. Patna, vide Memo No. 6472 dated 16.11.2000. This order appears to have not been challenged by the petitioner rather after creation of State of Jharkhand petitioner again approached the authorities of Jharkhand Police for considering his case for appointment on compassionate ground. The respondents-authorities, therefore, rightly rejected the claim of the petitioner holding that his application was already rejected by the Inspector General of Police Bihar Patna on 16.11.2000.

6. Be that as it may, there is no pleading at all in the writ petition that after Amar Bahadur Pradhan died issueless in June, 1998 the widow or any of the family member are facing financial crisis and being unable to maintain themselves. It is well settled that mere death of an employee does not entitle his family member to compassionate appointment unless it is prima facie proved that the family of the deceased is unable to meet the financial crisis. Appointment after lapse of reasonable period is not permissible. In this connection, reference may be made to the decision of the Apex Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, .

7. Having regard to the facts and circumstances of the case and the discussions made hereinabove. I do not find any merit in this writ application, which is accordingly dismissed.