
(2013) 02 JH CK 0002
In the Jharkhand High Court
Case No : WP (S) No. 7029 of 2006

Savitri Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-02-2013

Acts Referred:

Citation : (2013) 4 JLJR 57

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sujit Narayan Prasad, for the Appellant; Rajesh Kumar for the Respondent No. 4 and Mr. Y.N. Mishra, for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner has sought appointment on the post of ASI (Clerk) or any other equivalent post on compassionate ground on the ground that her husband B.S.F. Constable died-in-harness in the year 1995.

2. It is the contention of the petitioner that by the impugned order contained at Annexure-12 dated 29th September, 2006, even temporary arrangement by which she was allowed to work in PCO Booth has been extinguished on the ground that she has contracted marriage thereafter with another person. Learned counsel for the petitioner submits that the said stand of the respondents are contrary to an office memorandum dated 30th June, 1978 issued by the Government of India, according to which a widow appointed on compassionate ground would be allowed to continue in service even after remarriage. Learned counsel for the petitioner has relied upon the judgment of the Delhi High Court reported in Municipal Employees' Union Vs. Additional Commissioner (Water), DWS and SDU and Another, She has also claimed for grant of family pension, which according to her, has been withheld from 1st of October, 2004. Learned counsel for the petitioner submits that even by November, 2000 she has been called for facing an interview for being listed for consideration for appointment to the post of A.S.I. Clerk (Annexure-4)

3. Learned counsel for the Respondents-BSF have appeared and filed their counter affidavit. Learned counsel for the Respondents-BSF submits that the engagement of the present petitioner was continued purely on temporary and humanitarian grounds, since August, 1997. It was intimated to the petitioner vide communication dated 7th November, 2000 that only 5% vacancies exist under direct recruitment quota in any Group "C" & "D" posts which can be filled through compassionate appointments. BSF being a Combatant Force and there are very limited posts for womenfolk wherein they can be accommodated/appointed. Resultantly during 1996, there were more than 300 similar type of applications pending in the Headquarter of Director General, BSF due to non-availability of vacancies. The case of the petitioner was kept for three years as per the norms and that she could not qualify in the selection test of ASI (Clerk) held in November, 1998 and December, 1999. Thereafter, the petitioner was married to another constable on 14th January, 2002. Even the arrangement by which the petitioner was continued to run the P.C.O. was purely on the basis of a humanitarian grounds since, it is being run by B.S.F. Wives Welfare Association. After her marriage the same engagement has been terminated in view of circular referred to in Annexure-A. It is therefore submitted that the petitioner has no case for being considered for compassionate appointment at this stage after having preferred the writ application in the year 2006.

4. I have heard learned counsel for the parties and gone through the relevant materials on record. The death of the employee occurred in the year 1995. The petitioner was thereafter considered for compassionate appointment by the respondents for a period of 3 years till 2000. In the meantime, she was granted engagement in PCO Booth maintained by the BSF Wives Welfare Association on purely humanitarian ground. On her remarriage in 2002 obviously being contrary to the prevalent circulars the respondents have terminated the temporary engagement as well, as according to them the lady is no longer destitute having entered into the marriage with already employed person. In these circumstances, the petitioner has failed to make out a case for interference or issue of any direction for grant of compassionate appointment on the death of her husband in the year 1995. Learned counsel for the respondents has however stated that after her re-marriage family pension is being given to the son of the petitioner, Ajay Kumar under the guardianship of the petitioner from October, 2006 and as such the petitioner is not entitled for the claim of family pension on her own.

5. In that view of the matter, even the claim for family pension made by the petitioner does not appear to be sustainable as the family pension is already being given to the son after her re-marriage. Learned counsel for the petitioner however submits that the family pension is not being released. In that view of the matter, respondent-organization and the Bank would release the family pension to the son of the petitioner within a period of 8 weeks from the date of receipt/production of a copy of this order. With the aforesaid observations/directions, this writ petition stands disposed of.