
(2020) 02 J&K CK 0022
In the Jammu And Kashmir High Court
Case No : Writ Petition (C) No. 438 Of 2020

Shakuntla Devi And Another	Vs	APPELLANT
Union Territory Of J&K And Others		RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Constitution Of India, 1950 — Article 14, 16

Citation : (2020) 02 J&K CK 0022

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : B. R. Manhas

Final Decision : Dismissed

Judgement

1. Petitioners have approached this Court with a grievance that their claim for grant of compassionate appointment to petitioner No. 2, who is the son of deceased Government employee, Kirpal Singh, has not been considered.

2. Learned counsel for the petitioners submitted that Late Kirpal Singh was serving in the then Government Transport Undertaking. He died during his service on 24.05.2005. The Deputy Commissioner, Jammu had also issued justification certificate in favour of petitioner No. 2 on 28.07.2005.

Immediately thereafter, an application was made by the petitioners to the competent authority for appointment of petitioner No.2 on compassionate grounds, on 02.08.2005.

3. Learned counsel further submitted that the case was not processed though number of appointments were made by the official respondents after 2006 onwards. Some of the appointees have been impleaded as proforma respondent Nos. 5 to 14. This clearly establishes that there were posts

available. This is even further fortified from the fact that on 29.10.2016, number of posts were advertised by the State Road Transport Corporation.

He submitted that the petitioners filed an application under Right to Information Act on 05.04.2017. The same was responded to vide communication

dated 01.06.2017 showing that name of the petitioner No. 2 was standing at Serial No. 70 in the list for compassionate appointments.

4. Reference was also made to an order passed by this Court in SWP No. 374/2006 titled as Dalip Kumar Sachdev v. J&K State Road Transport

Corporation and another, decided on 17.04.2015, whereby a direction was issued for consideration of the claim of the petitioner therein for

appointment on compassionate basis.

5. Learned counsel further submitted that a representation was again filed by the petitioner on 03.04.2019. It was thereafter that the department took

up the matter and a direction was issued by the Under Secretary to the Government to the Managing Director of the State Road Transport

Corporation for placing all such case in the meeting of the Board to take final decision. Thereafter, the petitioners got a legal notice dated 27.12.2019

issued to the respondents, which has not been responded to.

6. In view of the aforesaid factual matrix, learned counsel for the petitioners submitted that a direction deserves to be issued to the respondents to

consider the case of the petitioner No.2 for compassionate appointment as he is waiting for the last fifteen years for the purpose.

7. After hearing learned counsel for the parties, I do not find any reason to interfere in the present petition.

8. Every appointment to public office must be made by strictly adhering to the mandatory requirements of Articles 14 and 16 of the Constitution. An

exception by providing employment on compassionate grounds has been carved out in order to remove the financial constraints on the bereaved

family, which has lost its bread-earner. Mere death of a Government employee in harness does not entitle the family to claim compassionate

employment. The Competent Authority has to examine the financial condition of the family of the deceased employee and it is only if it is satisfied that

without providing employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family. More so,

the person claiming such appointment must possess required eligibility for the

post. The consistent view that has been taken by Hon^{ble} the Supreme Court is that compassionate employment cannot be claimed as a matter of right, as it is not a vested right.

9. The Court should not stretch the provision by liberal interpretation beyond permissible limits on humanitarian grounds. Such appointment should, therefore, be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

10. In *Umesh Kumar Nagpal v State of Haryana & Ors*, (1994) 4 SCC 138, Hon^{ble} the Supreme Court considered the nature of the right which a dependant can claim while seeking employment on compassionate ground. The Court observed as under:â?

â??The whole object of granting compassionate employment is, thus, to enable the family to tide over the sudden crisis. The object is not to give a

member of such family a post much less a post for post held by the deceased..... The exception to the rule made in favour of the family of the

deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs of the

family engendered by the erstwhile employment which are suddenly upturned..... The only ground which can justify compassionate employment is the

penurious condition of the deceased's family. The consideration for such employment is not a vested right. The object being to enable the family to get over the financial crisis.â??

(Emphasis added)

11. An â??ameliorating relief? should not be taken as opening an alternative mode of recruitment to public employment. Furthermore, an application made at a belated stage cannot be entertained for the reason that by lapse of time, the purpose of making such appointment stands evaporated.

12. The Courts and the Tribunals cannot confer benediction impelled by sympathetic considerations to make appointments on compassionate grounds

when the regulation framed in respect thereof did not cover and contemplate such appointments. For the purpose, reference can be made to the

judgment of Hon^{ble} the Supreme Court in *MGB Gramin Bank v. Chakrawarti Singh*, AIR 2013 SC 3365.

13. Considering the fact that the policy for providing employment on compassionate basis is to take care of immediate need of the family of the

deceased employee on account of loss of the bread earner and the same is not an additional source of recruitment, the claim made for appointment

more than a decade after the death of the deceased employee deserves to be rejected.

14. In the case in hand it is evident from the fact that the father of the petitioner No. 2 expired on 24.05.2005. At that time, the petitioner No. 2 was

about 22 years of age, as presently he claims himself to be 37 years of age. He applied for appointment on compassionate basis on 02.08.2005 and

thereafter kept quiet for more than a decade till such time they filed application under Right to Information Act on 05.04.2017. Even after response

thereto vide letter dated 01.06.2017 by the State Road Transport Corporation, the petitioners kept quiet for a period of about two years till such time

representation dated 03.04.2019 was made and followed by a legal notice dated 27.12.2019.

15. Considering the aforesaid factual matrix, when the family can live for a period of more than one and a half decades after the death of their bread

earner, it is not a fit case in which a direction deserves to be issued at this stage for consideration of the case of the petitioner No. 2 for

compassionate appointment as the same is not an additional source of recruitment rather is a mean to provide immediate succour to the family of a

deceased employee.

16. For the reasons mentioned above, I do not find any merit in the present petition and the same is, accordingly, dismissed.