

(2010) 01 CHH CK 0021
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 4994 of 2009

Shivendra Giri Goswami

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 13-01-2010

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2010) 3 CGLJ 257

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Raghvendra Pradhan, for the Appellant; P.K. Bhaduri, Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The Petitioner, by this petition, seeks to challenge the order dated 20.3.2009 (Annexure P/1), passed by the Chief Conservator of Forest, Chhattisgarh, Raipur, whereby the prayer of the Petitioner for grant of compassionate appointment has been rejected.

2. According to learned Counsel appearing for the Petitioner, the father of the Petitioner Shri Kailash Giri Goswami was working as Forest Guard in the Forest Department, who died on 20.6.2008 in harness. Late Shri Kailash Giri Goswami had two wives i.e. Smt. Sakun Goswami and Smt. Chandrakala Goswami. The Petitioner is son of Smt. Sakun Goswami (first widow) and Ms Priyanka Goswami is daughter (sister of the Petitioner). Smt. Chandrakala Goswami (second widow) is already working on the post of Accountant in the Forest Department.

3. After death of the father of the Petitioner, in accordance with the judgment dated 4.9.2008, passed by the First Civil Judge, Class-I, Mahasamund, the pension of the deceased employee (father of the Petitioner) was divided in two shares i.e. half of the amount to the first widow and half of the amount to the second widow.

4. The contention of the Petitioner is that since the second widow of the deceased employee is already in service, on account of death of his father, one of the family members i.e. the Petitioner, is entitled to compassionate appointment. Thus, the impugned order dated 20.3.2009 is not sustainable.

5. Further contention of the Petitioner is that both the widows are living separately, and the second widow, who is already in service, is not maintaining the first widow and her children, as such the Petitioner is entitled for compassionate appointment.

6. I have heard learned Counsel appearing for the parties and perused the pleadings and documents appended thereto.

7. The principle of law on the compassionate appointment is well settled. The compassionate appointment is granted only in the event, if an employee dies in harness and on account of sudden death, the dependent family has become penurious on sudden demise of the bread earner of the family. The compassionate appointment itself is a backdoor entry. It is a departure from the general rule of employment, as provided under the provisions of Article 14 and 16 of the Constitution of India. The appointment on compassionate basis is not in accordance with the constitutional scheme of employment but in order to subserve the above stated purpose, this provision has been made under the Rules framed by the State Government (see *Commissioner of Public Instructions and Others Vs. K.R. Vishwanath*, *State of Jammu & Kashmir and Others Vs. Sajad Ahmed Mir*, *National Institute of Technology and Others Vs. Niraj Kumar Singh*,).

8. As per the policy of the Government dated 10.6.2003 if a member of the deceased employee is already in service, no compassionate appointment can be granted to other member. The policy of the Government dated 21.9.2007 provides that if yearly income of the dependents of the deceased family is more than Rs. 60,000/- then widow/widower or son/daughter or any other member is not entitled for compassionate appointment.

9. It is well settled that the appointment on compassionate ground is not a method of recruitment, but, is a facility to provide for immediate rehabilitation of the family in distress for relieving the dependent family members of the deceased employee from destitution. In other words, the object of compassionate appointment is to enable penurious family to tide over the sudden financial crisis and is not to provide employment. It is also well settled that mere death of the employee does not entitle his family to claim compassionate appointment if the family members could sustain themselves financially from other sources of income.

10. It is trite law that the appointment on compassionate basis to the dependent of the deceased employee can be granted only in accordance with the policy of the Government. If there is no policy to grant compassionate appointment to the dependent of the deceased employee, no writ can be issued against the

Government to grant any appointment, including the compassionate appointment. See Life Insurance Corporation of India Vs. Mrs. Asha Ramachandra Ambekar and another, and Commissioner of Public Instructions and Others Vs. K.R. Vishwanath,).

11. In the present case, the policy dated 21.9.2007 clearly provides that if any widow/widower or unmarried son of the deceased employee is earning and his income exceeds more than Rs. 60,000/- per annum, in that case, no widow/widower or son/daughter or any other member would be entitled to compassionate appointment. Admittedly, the second widow, which has been recognized by a competent Court also, pursuant to which half of the pension is being paid to her, is (sic) Government employee and there is no dispute that she is earning less than Rs. 60,000/- per annum. Thus, the impugned order dated 20.3.2009 seems to be exceptionable, warranting no interference.

12. In view of the above, this Court is of the opinion that no writ can be issued, directing the Respondents/authorities, to consider the case of the Petitioner for grant of compassionate appointment de hors the above stated policy.

13. Applying the settled principle of law as enunciated by the Hon'ble Supreme Court in various cases (Supra), to the facts of the present case, there is no necessity to take recourse to exceptional method of recruitment i.e. contrary to the normal rule of appointment at the cost of interest of several other persons on the touchstone of Articles 14 or 16 of the Constitution.

14. In view of the foregoing, this petition is devoid of merit and is accordingly dismissed.