
(2012) 03 SHI CK 0098
In the High Court Of Himachal Pradesh
Case No : CWP No. 972 of 2007-D

Shri Rajinder Bodh

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

Date of Decision : 09-03-2012

Acts Referred:

Citation : (2012) 03 SHI CK 0098

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Advocate : Jitender Ranout, vice and Mr. B.S. Thakur, for the Appellant; Rajinder Dogra, Additional Advocate General with Mr. Vikas Rathore, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, Judge

1. Petitioner's father was engaged on daily wage basis in the respondent-department w.e.f. 1987. Petitioner lost his father on 24th September, 1999. The Superintending Engineer, 11th Circle, HP PWD, Rampur offered work charge status to the father of petitioner vide office order dated 12th September, 2000 w.e.f. 1997. Petitioner also approached the respondents seeking appointment on compassionate basis. Petitioner being legal heir of deceased Kalzangpa, sought the release of amount under the Group Insurance Scheme, provident fund, gratuity, medical reimbursement and arrears of salary etc. Mr. Jitender Ranout, learned vice counsel for the petitioner has strenuously argued that his father should be deemed to have been conferred work charge status w.e.f. 1997 with all consequential benefits. He then argued that the claim of his client to seek compassionate appointment has been arbitrarily rejected by the respondents.

2. Mr. Rajinder Dogra, learned Additional Advocate General has strenuously argued that no monetary benefits could be released to the legal heirs since father of the petitioner has died before the decision was taken to confer work

charge status on him. He also argued that since the petitioner has not applied in the prescribed proforma, his case has rightly been rejected for compassionate appointment.

3. I have heard the learned counsel for the parties and gone through the pleadings carefully.

4. Petitioner's father has worked continuously w.e.f. 1987 till 1999. He was to be conferred work charge status immediately after completion of ten years' continuous service. However, as noticed above, the fact of the matter is that the decision to confer work charge status upon the petitioner's father was taken only on 12th September, 2000 w.e.f. 1997. Petitioner's father has been working continuously and has completed 10 years in 1997 and thereafter he also worked continuously till his death. Petitioner's father was fully eligible to be conferred work charge status and in the peculiar facts and circumstances of the case, he shall be deemed to have been conferred work charge status w.e.f. 1997 for all intents and purposes. Petitioner has lost his father on 24.09.1999. In normal circumstances, petitioner's father was entitled to arrears of salary and other monetary benefits payable to a work charged employee. The legal heirs are entitled to all the monetary benefits, including arrears of salary, gratuity, Group Insurance Scheme and medical reimbursement etc.. The gratuity has been denied to the petitioner only on the flimsy ground that he has not supplied the legal heirs certificate. Respondent-State was aware of the death of the petitioner's father and, in normal circumstances, taking into consideration that the petitioner's father belongs to lowest strata of the society, the gratuity ought to have been released to the L.Rs. /legal representatives instead of taking hypertechnical objection.

5. Similarly, case of the petitioner to seek compassionate appointment has been rejected in a most arbitrary manner, only on the ground that he has not applied on prescribed proforma. What is to be seen in these cases, is the substance not the form. Case of the petitioner, in normal circumstances, was required to be considered by the respondents at par with Shri Lopzane Tandup. Shri Lopzane Tandup's father was also working as daily wage worker, but he has been offered appointment only on the ground that he has applied on prescribed proforma. Respondents have acted in a mechanical manner. The very purpose of framing a scheme to give compassionate appointment will be defeated if the same is implemented in a rigid manner. The terms and conditions enumerated in the compassionate appointment scheme are to be construed liberally and hyper technical approach is to be shunned in order to mitigate the hardships faced by the persons, who have lost their bread earner. Consequently, in view of the observations and discussions made hereinabove, the writ petition is allowed. Respondent-State is directed to release the arrears of salary and other monetary benefits, including gratuity, medical reimbursement, Group Insurance Scheme to the legal heirs and also to consider the case of petitioner for appointment on compassionate basis on the basis of application dated 01.06.2001 furnished by

the petitioner, within a period of ten weeks from today. However, it is made clear that in case the petitioner is offered appointment on compassionate basis, he will not be entitled to arrears of salary, but will be entitled to seniority. Pending application(s), if any, also stands disposed of.