

(2003) 09 JH CK 0091
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4289 of 2003

Smt. Radha Devi

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 1 JCR 200

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Vandana Singh and Shailesh, for the Appellant; P.K. Prasad, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This application has been preferred by the petitioner for appointment of her second son on compassionate ground, elder son Late Shekhar Poddar, who was Hawaldar-cum-Driver in C.I.S.F. and posted at O.N.G.C., Mehsana in Gujarat, having died, in harness, on 18th March, 2002.

2. The counsel for the petitioner submitted that the deceased employee was an unmarried Government servant and being a member of the Armed Force, even the brother and sister are eligible for compassionate appointment.

3. Reliance was placed on a Scheme for compassionate appointment dated 9th October, 1998 (Annexure-6 to the writ petition). Clause (2) of the said Scheme reads, as follows:

"To whom Applicable :

To a dependent family member--

(A) of a Government servant who,

(a) dies while in service (including death by suicide); or

(b) is retired on medical grounds under Rule 2 of the CCS (Medical Examination) Rules, 1957 or the corresponding provision in the Central Civil Service Regulations before attaining, the age of 55 years (57 years for Group "D" Government servants); or

(c) is retired on medical grounds under

Rule 38 of the CCS (Pension) Rules, 1972 or the corresponding provision in the Central Civil Service Regulations before attaining the age of 55 years (57 years for Group "D" Government servants); or

(B) of a member of the Armed Forces who--

(a) dies during service; or

(b) is killed in action; or

(c) is medically boarded out and is unfit for Civil employment

NOTE 1.--"Dependent Family Member" means:

(a) spouse; or

(b) son (including adopted son); or

(c) daughter (including adopted daughter);

(d) brother or sister in the case of unmarried Government servant or member of the Armed Forces referred to in (A) or (B) of this para, who was wholly dependent on the Government servant/ member of the Armed Forces at the time of his death in harness or retirement on medical grounds, as the case may be."

4. There is nothing on the record to suggest that the second son of petitioner was dependent on her first son. From the cause title, it appears that the husband of the petitioner is still alive. Naturally, it is to be presumed that the second son is the dependent of his father, husband of petitioner, who is still alive.

5. In the writ petition, the petitioner has not made any averment that the second son is the dependent of the first son nor any evidence in its support has been enclosed. In this background, the respondents have rejected the claim of petitioner for appointment of her second son vide letter dated 29th April, 2003.

6. The ground given by the respondents cannot be held to be illegal. This apart, one may doubt the validity of the last part of Clause (2) of the Scheme, in question, where the provision has been made for appointment of a brother on compassionate ground.

7. There being no merit, the writ petition is dismissed.