(2004) 04 PAT CK 0072

In the Patna High Court

Case No : CWJC No. 12593 of 2003

Smt. Shyam Sundari Devi — APPELLANT

Vs

Punjab National Bank and Others — RESPONDENT

Date of Decision : 12-04-2004

Acts Referred:

Citation : (2004) 04 PAT CK 0072

Final Decision : Dismissed

Judgement

R.S. Garg, J.—Heard learned counsel for the parties.

2. The petitioners, Smt. Shyam Sundari Devi and Ganesh Prasad, widow and son of Late Chnni Lal Ram, have come to this Court in this writ application, inter alia, submitting that the order contained in Annexure-1, letter dated 14.8.2003, under which appointment on compassionate ground has been refused by the Bank is bad and deserves to be quashed with a direction against the Bank to issue an order of appointment in favour of the petitioner No. 2.

3. On notice the respondents appeared in the Court and submitted that the order contained in Annexure-1 is valid and justified. In paragraph 6 they have submitted that the family received a sum of Rs. 2,05,218/- as terminal benefits and they are getting family pension of Rs. 3014/- per month. It is submitted by them that the petitioners are well to do, they can maintain themselves and the Bank is absolutely justified in refusing appointment on compassionate ground.

4. Learned counsel for the petitioners submitted that on payment of said paltry amount and pittance in the name of pension, if appointment on compassionate ground is not granted then the provisions contained in the scheme which was framed in accordance with the directions issued by the Supreme Court in the matter of Umesh Kumar Nagpal Vs. State of Haryana and Others, , would be defeated and the scheme would remain in the books and would never be implemented by the employers. He submits that the terminal benefits as shown in paragraph 6 of the counter, in fact, are imaginary. According to him the

deceased had taken housing loan of Rs. 21,716/- and at the time of death of the deceased only a sum of Rs. 10,858/- was adjusted and the balance, if was given as a concession, the same would not become the liquid fund in the hands of the family. It is also submitted by him that the deceased had taken a personal loan of Rs. 25,000/- for performing the marriage of the daughter which became Rs. 28,259/- at the time of death and this amount would be adjusted by the respondents while making the final payments. According to him, if the amount of Rs. 10,858/-and the personal loan amount are deducted from the total receipts then the petitioners would only get a sum of Rs. 166,000/- and odds. He submits that pension of Rs. 3014/- per month is not sufficient enough to maintain the family of the deceased and under such circumstances the petitioner No. 2 is entitled to be appointed. The respondents have opposed the application.

5. In the matter of Umesh Kumar Nagpal (supra), the Supreme Court observed that the whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post muchless a post for post held by the deceased. What is further, mere the death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it''s only if it is satisfied, that but for the provisions of 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. The posts in Class III and IV are the lowest post in non-manual and manual categories and hence they alone can be offered on compassionate ground, the object being to relieve of the ''financial destitution and to help it get over the emergency. In the said matter, the Supreme Court further observed that certain scheme should be framed so that the appointing authority does not act in an arbitrary manner or is not governed by the whims or caprice. The policy must be in accordance with the policy of providing employment after taking into consideration the various aspects which should have the persuasive value to offer anointment on compassionate ground.

6. Almost every Department which is providing appointment on compassionate ground have made certain schemes. The schemes are requiring the appointing authority to take into consideration (1) the family pension to be received by the family, (2) gratuity amount to be received by the family, (3) employee''s and employer''s contribution of provident fund, (4) any compensation paid by the Bank or its welfare fund, (5) proceeds of LIC policy and other investments of the deceased employee, (6) income of the family from other sources, (7) employment of other family members and (8) size of the family and other liabilities, if any.

7. The policy does not say that if one out of the eight is missing then the man would be entitled to appointment on compassionate ground. The policy requires to consider every requirement in juxtaposition. The combined and cumulative effect of each and every point is to be taken into consideration. The equities are

to be balanced and it has to be seem by the authority that in a given state of circumstances the person making an application for compassionate appointment would be entitled to appointment or not. The Supreme Court in the matter of Umesh Kumar Nagpal (supra) has made it very clear that the Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provisions of employment, the family will not be able to meet the crisis, that a job is offered to the eligible member of the family.

8. From these above referred observations, one must understand that the authority has to consider every thing in juxtaposition vis-a-vis the post in the Government or the public authority; the authority has to examine the financial condition of the family, it has to record its satisfaction that if the compassionate appointment is not made in the form of the succour the family would not be able to meet the crisis and, if every thing is decided in positive and in favour of the family only then the appointment on compassionate ground can be allowed. In the present matter according to the respondents a sum of Rs. 65,446/- has been received by the family towards provident fund, Rs. 73,914/- as gratuity, Rs. 40,000/-under the benevolent fund maintained by the Bank and a sum of Rs. 15,000/- has been paid as ex-gratia amount, The deceased in his life time was required to repay the loan Rs. 10,858/-, a concession of which has been given to the family after the death of the deceased. If the deceased was to pay a sum of Rs. 21,716/- towards housing loan and because of his death a concession of Rs. 10,858/- is given to the family then that may not be an earning in cash but in fact is a receipt by the family. Assuming that the counsel for the petitioner is justified in submitting that the said amount which is shown as a receipt by the family and is also justified in submitting that a sum of Rs. 28,269/- are to be adjusted towards the consumer loan then too the petitioners'' family would get a sum of Rs. 1.66 lacs and odds. According to the respondents, the family pension is Rs. 3014/- per month. This amount and the other amounts received by the family of the petitioners may hot provide butter on the bread but the appointment on compassionate ground is not to provide the butter but to provide the bread to the mouth which is hungry and a little oil to the hands which are scratching because these are also dry. In the present matter the respondent-authority within the four corners of its jurisdiction has considered the matter in its true perspective and has found that the petitioners'' family is not entitled to appointment on compassionate ground. The Supreme Court, as observed above, has made it clear and pointed that the appointment on compassionate ground is not a regular appointment, it has to meet the crisis which would be suffered by the family because of the death, rather abrupt or sudden death of the bread-winner of the family, In the present matter the man died on 16.5.2000 and the family received the benefits within a short while. Present is not. a case where the photograph of money is shown to the petitioners'' family and at the same time the appointment on compassionate ground is refused. The petitioners in fact are receiving the pension and have received other funds. This Court must observe

that the discretion exercised by the respondent-authority was based on sound footing, proper appreciation of the scheme and it does not call for any interference by this Court.

9. The petition deserves to and is accordingly dismissed.

