
(2008) 09 MP CK 0013

In the Madhya Pradesh High Court

Case No : Writ Petition No. 3458 of 2008 (s)

Sonabai Ratanlal Sankla

APPELLANT

Vs

State of M.P. and others

RESPONDENT

Date of Decision : 08-09-2008

Acts Referred:

Citation : (2009) 2 MPLJ 83

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

Bench : Single Bench

Advocate : V.K. Patwari, for the Appellant; M.S. Dwivedi, Panel Lawyer, for the Respondent

Final Decision : Allowed

Judgement

Shantanu Kemkar, J.

The petitioner's husband Ratanlal Sankla was working on the post of Peon in the Water Resources Department of the State Government. He died in harness on 28-8-2005. The petitioner being his widow applied for her compassionate appointment in place of her husband. The said application for compassionate appointment was rejected vide order dated 16-10-2006 (Annexure P/3) passed by the respondents on the ground that the petitioner has not passed 5th standard examination which is the minimum qualification for being appointed on the post of peon.

Having received the said order of rejection, the petitioner widow of the deceased employee promptly appeared and passed 5th class examination in the year 2007. On being qualified for appointment on the post of peon, she again applied for compassionate appointment. The said application has been rejected vide impugned order dated 14-1-2008 (Annexure P/I) passed by the respondents stating therein that earlier her application has already been rejected and in view of the circular dated 22-1-2007 the applications which have already been rejected cannot be reconsidered. Feeling aggrieved the petitioner has filed this

petition.

According to the petitioner the circular dated 22-1-2007 (Annexure P/6) on which reliance has been placed itself provides for consideration of application for a period of seven years from the date of death of the government servant. In the circumstances though the petitioner may not be qualified at the time when she applied for the first time but after acquiring requisite qualification of passing the 5th class examination her application which was in accordance with the policy for the compassionate appointment should not have been rejected by the respondents.

The respondents filed reply and have supported the reasons stated in the order of rejection of the petitioner's application.

Having heard learned counsel for the parties I am of the considered view that the impugned order dated 14-1-2008 (Annexure P/6) by which the petitioner's application has been rejected cannot be sustained. Though initially the petitioner may not be having minimum qualification of passing of 5th class examination for her being appointed on the post of Peon on compassionate basis. But when she promptly acquired the minimum qualification by passing the 5th class examination, her application could not have been thrown away by the respondents observing that on earlier occasion her application has already been rejected. When the earlier rejection was merely on the ground of her being not possessing the minimum educational qualification, on her acquiring the said qualification with promptitude it was incumbent upon the respondents to have given a consideration to it on merits, instead of rejecting it on the ground as stated in the order. The approach of the respondents in rejecting the petitioner's second application cannot be said to be justified. It is also to be noticed that it is not a case where a widow is prosecuting a stale claim and seeking compassionate appointment after a long lapse of time so as to disentitle her on the ground that compassionate appointment cannot be granted after a long lapse of time as it is for the immediate help for the family of the deceased in crisis. But it is a case when after the first rejection on the ground of not having minimum educational qualification the petitioner immediately acquired the requisite qualification and applied for the compassionate appointment.

In view of the aforesaid the petition deserves to be and is hereby allowed. The respondents are directed to reconsider the petitioner's claim for appointment on compassionate basis and pass appropriate orders on it within three months from the date of receipt of copy of this order.