(2002) 09 JH CK 0088

In the Jharkhand High Court

Case No : LPA No. 140 of 2002

Steel Authority of India Ltd. — APPELLANT

Vs

Ranjit Kumar Thakur and Others — RESPONDENT

Date of Decision : 09-09-2002

Acts Referred:

Citation : (2002) 09 JH CK 0088

Hon'ble Judges : V.K. Gupta, C.J;Tapen Sen, J

Bench : Division Bench

Advocate : M.M. Banerjee, G.M. Mishra and U.M. Mishra, for the Appellant; Naresh Prasad Singh, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—This letters patent appeal is directed against the judgment and order dated 6.12.2001 passed in W.P. (S) No. 3886 of 2001, passed by the learned single Judge of this Court by reason whereof the appellant-Steel Authority of India Ltd. having its registered office at Ispat Bhawan, Lodhi Road, New Delhi and its Lime Stone Mines at Bhawanathpur, District Garhwa, have been directed to consider the case of petitioner/respondent (Ranjit Kumar Thakur) for appointment on compassionate grounds against an appropriate post and vacancy. The learned single Judge also observed that if there was no vacancy existing for the present then they would consider the case for such appointment, if vacancy existed in future, say within a year along with those, if any, similarly situated.

2. The learned single Judge relied upon the case of Balbir Kaur and Another Vs. Steel Authority of India Ltd. and Others, and held that the above mentioned judgment was binding upon Steel Authority of India Ltd. While relying upon the judgment of the Supreme Court, the learned single Judge observed that there was no dispute that a scheme for compassionate appointment reiterated by circular dated 2.5.2001 is in existence. However, the appellant''s case was that the scheme will apply only in cases where the death was only due to kidney

failure, heart attack or cancer. The case of the appellant was that it will not apply to cases where death has occurred for any other reason. Rejecting the aforesaid contention of the appellants and relying upon the judgment of the Supreme Court, the learned single Judge observed that it has already been held by the Apex Court that the Family Benefits Scheme cannot be equated with compassionate appointment and directed to consider the case of the dependent employee for compassionate appointment.

3. We do not appreciate the stand of the appellant in limiting the eligibility criteria for compassionate appointment to only those who die of either kidney failure, heart attack or cancer. Death is not optional. Nobody can opt and say that he is entitled to a particular kind of death. Death comes to all and, therefore, limiting the eligibility to only three cases of death is, in the opinion of this Court is absolutely unreasonable and irrational. That apart, we find no irregularity with the order of the single Judge and, therefore, we accordingly uphold the same. The appeal is consequently dismissed.

4. However, we cannot loose sight of the manner in which the appellants have boldly taken the aforementioned stand to the effect that the respondent is not eligible as per the circular. The circular was appended as Annexure 7 to the writ application bearing No. W.P. (S) 3886/2001. The abovementioned circular lays down inter alia, that only those persons would be entitled to consideration for compassionate appointment where death occurred due to kidney failure, heart attack or cancer.

5. Before the writ Court, Mr. P.D. Kurup, Manager (L&E) of the appellant filed a counter affidavit and at paragraph 5(O) he stated as follows :--

"That I say that recently Raw Materials Division Management has reviewed the matter of compassionate and it was decided vide Circular No. RMD/C/KKA/EF/14/01/51 2 (RMD/C/PERS/F/14/01/512) dated 2.5.2001 to consider the case of nominee of the deceased who died due to : (a) Kidney failure; (b) Heart attack; and (c) Cancer on seniority basis effectively from 90-91 yearwise and seriatim. And also not a recipient of Family Benefit."

6. Similarly, at paragraph 10 of the counter affidavit, he made the following statement :--

"With reference to the statement made in paragraph 5 of the said writ application, I say that the petitioner''s father expired on 6.6.1998 in the respondent hospital due to prolonged illness (Asthma)."

7. The above mentioned stand of the appellant was the sheer attempt on their part before the writ Court deliberately wanting to create an impression that since the respondent''s father died out of prolonged illness (Asthma), he was therefore, not entitled to the benefits of the circular and consequently, not entitled to appointment on compassionate considerations. That apart, the other ground that was taken that the respondent''s mother was also recipient of family

benefit scheme and as such not entitled for appointment on compassionate consideration. So far as the aforesaid Family Benefit Scheme is concerned, the learned single Judge has already taken care of the same by relying upon the judgment of the Supreme Court.

8. We, however, cannot ignore the other false ground taken by P.D. Kurup (Manager, L&E) in the counter affidavit when he specifically asserted before the writ Court that the respondent''s father died of prolonged illness (Asthma) and, therefore, he did not come within the category of eligibility as per the scheme. In other words, what he misleadingly attempted to convey was that the petitioner''s father did not die of kidney failure, heart attack or cancer.

9. We are satisfied that the aforementioned statement made by P.D. Kurup was a false statement before this Court inasmuch as he perhaps thought that we would be totally ignorant or would not understand the contents of the medical certificate which was appended as Annexure 1 to the writ application. If Annexure 1 to the writ application is perused, it is evident that it reads thus :--

"Cause of death : C.R. failure.

Diagnosis : Acute severe Asthma-Lt. Ventricular failure."

10. The above death certificate squarely establishes that Birendra Thakur (father of the respondent) died of Cardio Respiratory failure (C.R. failure) and of acute severe Asthma and left ventricular failure. This, therefore, was a clear case of heart attack on account of the severe asthma fully entitling the respondent to claim appointment on compassionate consideration.

11. What has shocked us further is that the appellants have attempted to file this letters patent appeal wherein they have again attempted to mislead us about the cause of death.

12. In that view of the matter we were inclined to initiate appropriate proceeding, but taking a lenient view, we warn P.D. Kurup to be very careful in future in matters relating to Court.

13. The appeal is dismissed with costs quantified at Rs. 10,000/- (Rupees Ten Thousand).