

(1997) 12 DEL CK 0041
In the Delhi High Court
Case No : C.W. No. 384/97

Sudesh Kalra

APPELLANT

Vs

Bureau of Indian Standards and Others

RESPONDENT

Date of Decision : 05-12-1997

Acts Referred:

Citation : (1997) 12 DEL CK 0041

Hon'ble Judges : Usha Mehra, J

Bench : Single Bench

Advocate : Mr. R.K. Saini, for the Appellant; Mr. B.K. Sood, for the Respondent

Judgement

Usha Mehra, J.—The husband of the petitioner was working as Senior Personal Assistant with the respondent Bureau of Indian Standards (in short B.I.S.). He died on 21st May, 1993. He left the petitioner as the only legal heir. The petitioner after the death of her husband applied for employment on compassionate grounds on 11th June, 1993. When employment on compassionate ground was not given to her she sent reminders in September 1993, August, 1995 and March, 1996. On her repeated reminders, the respondents vide their letter dated 24th April, 1996 intimated that her case was not found fit for appointment on compassionate grounds. Her request for appointment on compassionate ground was declined. After receipt of this letter petitioner made another representation to the respondent to reconsider its decision. The same was also rejected on 30th May, 1996. She made yet another representation which has not been decided, hence this petition.

2. Respondent's stand on the other hand has been that even though the husband of the petitioner died in harness yet she is not entitle for a job on compassionate ground because her financial conditions are not such for which a job on compassionate ground could be offered. Deceased was issueless. She being alone has sufficient means to live comfortably. She was paid a sum of Rs. 4,19,932.50 paise on account of various welfare schemes. She also been paid a sum of Rs. 2,165/- per month as family pension. Moreover, during the visit of a

Welfare Officer of the respondent this petitioner informed him that the purpose of her applying for the job was not money but to pass the spare time and to avoid loneliness. She has been paying a sum of Rs. 30/- as rent of the accommodation in her possession. On this count also it can be said that she is not in financial difficulties. There being no financial liability she is not eligible for appointment on compassionate ground. In the rejoinder the petitioner took the plea that she was offered Class-D post i.e. the post of Peon which she declined. She was assured that as and when she passes the 12th Class she would be given the job of a Clerk. Since now she has passed the 12th Class, hence entitled to get a job on compassionate ground. Moreover, on account of the illness of her husband she had to take a loan of Rs. 71,000/- out of the amount received against the welfare schemes she had to shell out Rs. 71,000/- towards repayment of loan and remaining amount has been spent for purchasing a residential plot of land measuring about 68 sq. yards. She has to have a house of her own. Amount received having already been spent there is nothing left with her to maintain herself. She has also to adopt a child and hence requires job.

3. After hearing Mr. R.K. Saini for the petitioner and Mr. B.K. Sood for the respondent I am of the opinion that petitioner is not entitle for a job on compassionate ground. In similar circumstances the Apex Court in the case of Umesh Kumar Nagpal Vs. State of Haryana and Others, laid down the criteria for the appointment in public service on compassionate ground. The criteria to be considered is enumerated thus:-

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 provision 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 whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis and to relieve the family of the financial destitution and to help it get over the emergency. (Under linings are mine)

4. The Court further observed that the favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved namely relief against destitution. It was further observed that Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Class III and IV. That is legally impermissible. Deprecating the directions given by some of the High Courts to give compassionate employment either as a matter of course or in posts above Class III and IV, the Apex Court expressed dismay on such directions. The Apex Court clarified its judgment in Sushma Gosain & ors. Vs. Union of India & ors., (1989) 4 SLR 327 and observed that the decision in that case was misinterpreted to the point of distortion. That decision did not justify compassionate employment either as a matter of course or employment in posts above Class III

and IV. The Apex Court further observed that the only ground which can justify compassionate employment is the penurious condition of the deceased's family. If the dependent of the deceased finds it below his or her dignity to accept the post offered then he or she is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity. Even otherwise the compassionate employment cannot be granted after a lapse of a reasonable period. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole bread-earner. The compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over. In view of the above guide-lines we have to see whether the petitioner has been able to make out a case for compassionate employment.

5. Admittedly, the husband of the petitioner died on 21st May, 1993. As per her own showing stated in the representation of June, 1993 that she was offered a job by the respondent in Grade "D" service. That she refused to accept the job in Grade "D" because according to her, she possessed qualification which is equal to high school i.e. metric, and, Therefore, eligible for employment in clerical cadre. After having refused the job offer by the B.I.S as per her own version, to my mind, she is not entitled to get a job now after a lapse of almost four years of the death of her husband. Observations of the Supreme Court quoted above squarely apply to the facts of this case. Being dependent of the deceased if she found it below her dignity to accept the job of Grade "D" she is free not to do so. The post cannot be offered to cater to her status. Jobs on compassionate grounds are offered to see the family through the economic calamity. The very fact that petitioner as per her own showing refused to accept the job offered in Grade "D" shows she was not interested in the job but status. She did not want the job to tide over her economic crisis. What she wanted was a job of status equivalent to her qualification which the supreme court says she was not permissible. Secondly, petitioner has already been paid a sum of Rs. 4,19,432. So paise on account of various welfare schemes. She has been recipient of family pension of Rs. 2,165/- per month. She being issueless, it cannot be said that if job is not given she will become destitute or that she has no source of income. In fact the amount of Rs.4,19,432.50 received by her if converted into Fixed Deposit Receipt will earn her interest beside getting pension of Rs.2,165/- per month. For a single person the amount of pension and the interest cannot be said that she is in dire need of money to tide over her financial crisis.

For the reasons stated above, I find no merits in the petition. Dismissed.