
(2011) 03 JH CK 0206

In the Jharkhand High Court

Case No : Writ Petition (S) No. 1692 of 2007

Superwati Champia

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 03 JH CK 0206

Hon'ble Judges : J.C.S. Rawat, J

Bench : Single Bench

Judgement

J.C.S. Rawat, J.—In this writ petition filed under Article 226 of the Constitution of India, the Petitioner has prayed for quashing of the order under memo No. 1388 dated 4.6.2007 issued by the District Superintendent of Education (Respondent No. 4) whereby the Petitioner's application for compassionate appointment has been rejected on the ground of expiry of the prescribed period for submission of the application. The Petitioner has further sought issuance of mandamus directing the Respondents to provide employment to the Petitioner in a class IV post under compassionate appointment scheme.

2. In a nutshell, the case of the Petitioner is that the husband of the Petitioner was employed as Assistant Teacher in primary school Maranda, Kumardungi Block in the West Singhbhum District under Respondent No. 4. He died in harness on 29.3.1998. Thereafter, an application was filed by the Petitioner, the wife of the deceased seeking compassionate appointment under the Respondents. The said application was not considered for long time; then the Petitioner preferred this writ petition before this Court for seeking mandamus for appointment in a class IV post. During the pendency of the writ petition, the Respondent No. 4 rejected her application on the ground that the husband of the deceased on 29.3.1998 and the said application was received on 15.10.2003. So the application has been moved after delay of 6 months and 16 days from the date of death and therefore the said application was time barred. Feeling

aggrieved by the said order, the Petitioner preferred IA No. 2340 of 2007 seeking amendment to the writ petition by which certiorari has been sought for quashing the said order. The amendment was allowed and it was directed that the IA will be made part of the writ petition.

3. The Respondent No. 4 has filed counter affidavit in which it is stated that the allegation of the Petitioner that the application was submitted well within time on 1.10.2002 is incorrect and it was submitted to the Respondent No. 4 on 1.10.2003 and actually the date was manipulated from 1.10.2002 to 1.10.2003 and as such the application was filed beyond time and it was rejected on that ground.

4. I have heard the learned Counsel for the parties.

5. Annexure 5 to the writ petition is the scheme under which compassionate appointment is being given to qualified persons. It provides that application must be given within 5 years from the date of death of the deceased employee.

6. Learned Counsel appearing on behalf of the Petitioner contended that the Petitioner had submitted his application in the year 2002 and the same was forwarded by the Head Master on 1.10.2002 to the Dist. Education Officer, Chaibasa. He further contended that the said application was submitted well within time and a copy of which he has filed along with IA petition.

7. Learned Counsel appearing for the Respondents refuted the contention and pointed out that the said application of the Petitioner clearly reveals that the signature of the Headmaster bears the date but the said date has been manipulated as 1.10.2002 instead of original date 1.10.2003. The Petitioner has tried to cheat the Respondent by manipulating the date in order to bring the application within time.

8. It is not in dispute that the application must be given within 5 years from the date of death of the deceased. The Respondent No. 4 has simply stated that the date has been manipulated. It is not clearly mentioned how the manipulation was done. Only a vague averment has been made with regard to the alleged manipulation which is not sufficient. It is pertinent to mention here that the Petitioner submitted his application to the headmaster which was well within time. The Headmaster sent the application to the DEO concerned and thereafter he would have ceased with the matter. Apart from that if the headmaster would have been interested in the case, the Respondent No. 4 would have made a statement in counter affidavit that the date was manipulated by the Headmaster or he has interested in the Petitioner. Learned Counsel for the State could not demonstrate that there was any one interested in filing the said application. Apart from that, the headmaster is an officer of the Respondent No. 4 and he is not concerned with the Petitioner. If the contention of the Respondent No. 4 was correct, he could have produced the affidavit of the Head Master that the said application was not forwarded by him on 1.10.2002 and he forwarded it on 1.10.2003. It is admitted that the Petitioner's application bears the date as

1.10.2002. In view of the above, it is amply proved that the application was submitted on 1.10.2002, which was well within time. Thus, the rejection of the application by the Respondents for compassionate appointment of the Petitioner is not maintainable.

9. In view of the above, this writ petition is allowed and impugned order under memo No. 1388 dated 4.6.2007 passed by the Respondent No. 4 rejecting her application for compassionate appointment is hereby quashed. The Respondents are directed to consider the case of the Petitioner for compassionate appointment in the light of the observations made above expeditiously, preferably within a period of four months from the date of receipt/production of a copy of this order.

This writ petition is disposed of accordingly. No order as to costs.