

(2022) 02 JH CK 0028

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2092 Of 2021

Suraj Ganjhu @ Suraj Ram

APPELLANT

Vs

State Of Jharkhand And Others

RESPONDENT

Date of Decision : 23-02-2022

Acts Referred:

Citation : (2022) 02 JH CK 0028

Hon'ble Judges : Dr. S. N. Pathak, J

Bench : Single Bench

Advocate : Madan Kumar, Nityanand Chouhdary

Final Decision : Dismissed

Judgement

Dr. S.N. Pathak, J

1. Heard the parties.
2. Petitioner has approached this Court with a prayer for direction upon the respondents to consider the case of the petitioner for appointment on compassionate ground.
3. As per the factual matrix, father of the petitioner was appointed as peon in the year 1966 and after serving the Department for long years, died in harness on 14.04.1986. After death of his father, the petitioner applied for compassionate appointment on account of death of his father but the same was rejected on 27.10.1986 on the ground that the application submitted by the petitioner was not in prescribed format. It is the further case of the petitioner that even family pension has not been fixed and hence, the petitioner has been constrained to knock the door of this Court.
4. Mr. Madan Kumar, learned counsel appearing for the petitioner vociferously argues that it is the right of the petitioner to get compassionate appointment since father of the petitioner died in harness in the year 1986 itself and as his mother was illiterate, she was not acquainted with the legal procedure and as

such, even though his case was rejected in the year 1986 itself, the mother of the petitioner did not prefer any representation and was waiting for letter or response from the respondents. Learned counsel accordingly submits that a direction be given to the respondents to consider the case of the petitioner for compassionate appointment and also for fixation of family pension.

5. Per contra, counter-affidavit has been filed. Learned counsel appearing for the respondent-State vehemently opposes the contention of learned counsel for the petitioner and submits that petitioner has knocked the door of this Court after lapse of more than 35 years from the death of his father and as such, the writ petition itself is hopelessly time barred. Learned counsel further submits that the compassionate appointment is not a regular source of appointment but an exception, and the purpose and object of the scheme is to provide immediate succor to the family of an employee on his death, that may suddenly find itself in state of destitution and the whole object is to enable the family to tide over the sudden crisis. Mere death of a government employee in harness does not entitle the family to claim compassionate appointment. In the instant case, since the family of the deceased employee has survived for more than 35 long years, no ground for compassionate appointment is made available in favour of the petitioner. Regarding fixation of family pension, learned counsel submits that the same has already been fixed and the petitioner is getting the same.

6. Be that as it may, having gone through the rival submissions of learned counsel for the parties, this Court is of the considered view that no case is made out for interference in the instant case. Admittedly, the case of the petitioner was turned down in the year 1986 itself but neither the petitioner nor his mother bothered to file any representation for reconsideration of their cases and it is only after 36 years, the petitioner has knocked the door of this Court for getting compassionate appointment. The petitioner is silent over the said inordinate delay and nothing has been whispered in the instant writ petition as to what has prevented the petitioner from knocking the door of this Court for 36 long years. Admittedly, father of the petitioner was the sole bread-earner of his family but any appointment cannot be granted de hors the rules. Regarding family pension, the grievance of the petitioner has already been redressed, as submitted by the learned counsel for the respondents.

7. The Hon'ble Apex Court in plethora of judgments has held that appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for under the Rules.

8. The Hon'ble Apex Court in the case of Umesh Kumar Nagpal vs State Of Haryana, reported in 1994 SCC (4) 138, has held as under:-

"6. The compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. 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 breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

Further, the Hon’ble Apex Court in case of Canara Bank & Anr. Vs. M. Mahesh Kumar, reported in (2015) 7 SCC 412 has held as under:-

“16.

Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme.

(ii) An application for compassionate employment must be preferred without undue delay and has to be considered within a reasonable period of time.

(iii) An appointment on compassionate ground is to meet the sudden crisis occurring in the family on account of the death or medical invalidation of the breadwinner while in service. Therefore, compassionate employment cannot be granted as a matter of course by way of largesse irrespective of the financial condition of the deceased/incapacitated employee’s family at the time of his death or incapacity, as the case may be.”

9. As a sequitur to the aforesaid observations, rules, guidelines, legal propositions and judicial pronouncements, the writ petition being devoid of any merit, is hereby dismissed.