
(2015) 08 KAR CK 0279

In the Karnataka High Court

Case No : Writ Petition No. 50442 of 2012 (GM-KEB)

Umesh H.C.

APPELLANT

Vs

Director Administration and Human Resources, KPTCL and
Others

RESPONDENT

Date of Decision : 17-08-2015

Acts Referred:

Citation : (2015) 08 KAR CK 0279

Hon'ble Judges : Ravi V. Malimath, J

Bench : Single Bench

Advocate : B. Roopesha, for the Appellant; H.V. Devaraj, Advocate for N.K. Gupta, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ravi V. Malimath, J—The case of the petitioner is that his father was working with the respondent-corporation as Lineman from the year 1972. He died on 24.05.2008, while in service. His wife and two children are his legal representatives. After his death, the petitioner filed an application on 1.4.2009, seeking appointment on compassionate grounds. The same was denied by the respondent. Hence, he filed the present petition.

2. The learned counsel for the petitioner contends that the denial of the appointment on compassionate grounds is on the basis that the petitioner's brother is working as a Grade-II employee with the respondent. Therefore, the petitioner being his brother is not entitled for any appointment on compassionate grounds. Therefore, he pleads that the petition be allowed. He further relies on the Annexure-J namely, the notification to bring out the amendment to Regulation-4(1)(a) for Conditions Of Appointment of Karnataka Electricity Board Recruitment (Appointment on Compassionate Grounds) Regulations, 1997, to state that the income of the family member is to be reckoned from the date of making the application. That admittedly, the income was less than what is prescribed by the respondent. Hence, he pleads that the writ petition be allowed.

3. On the other hand the learned counsel for the respondent defends the impugned action of the respondent-corporation. He contends that the brother of the petitioner being Grade-II employee, the petitioner was not entitled for appointment on compassionate grounds. That the notification was issued on 17.08.2009 and the application was made on 09.02.2009. Therefore, the amendment in terms of Annexure-J would not be applicable to the petitioner. That the amendment should be read prospectively, namely, from the date of the notification and it cannot be read to mean to apply from the date of application. Hence, he pleads that the writ petition be dismissed.

4. On hearing learned counsels, I am of the considered view that appropriate relief requires to be granted.

5. So far as the income of the brother is concerned, the same is not in dispute. In terms of Annexure-G, it would indicate that the income of the brother of the petitioner was Rs. 9,187/- per month. In terms of the amendment brought about vide Annexure-J, the scale of pay should be equal to the F.D.A. in the State Government as on the date of the making application. The amendment reads as follows:

"As Amended:

The family of the deceased employee should be in a immediate financial crisis or destitution on account of the death of the employee.

Explanation:

(a) Family of a deceased employee shall be considered to be in financial crisis or destitution if the recurring monthly income of the family from all sources of all persons whether living separately or jointly including earnings of other family members shall be less than the total emoluments including DA, HRA and CCA admissible at Bengaluru on the average of the minimum of the scale of pay of the post of the First Division Assistant in State Government as on the date of making application for Compassionate appointment. For calculating such monthly income, the income from family pension, interest earned on pensionary benefits shall be excluded."

6. The pay of a F.D.A. in the State Government is to the tune of Rs. 16,000/- per month. The pay of the petitioner's brother is about Rs. 9,187/-. Therefore, Annexure-J would be clearly applicable. Moreover, Annexure-J is with reference to the salary as on the date of making the application. However, it is contended that the date of Annexure-J is 17.08.2009. The application is made prior to that date. Therefore, Annexure-J is to be read prospectively. I am unable to accept the said contention of the respondent, primarily, because the same does not call for interpretation at all.

7. The amendment which has been brought about would clearly indicate that the scale of pay is to be reckoned as on the date of making the application for appointment on compassionate grounds. It does not indicate as prospectively or

retrospectively. The date assigned by virtue of the amendment is as on the date of making the application on compassionate grounds. Hence no interpretation can be made, since the language employed is clear and cogent. The application in the present case has been made on 09.02.2009. The salary of the brother of the petitioner was Rs. 9,187/- as on the date, which is far less than the pay of a F.D.A. in State Government as on the date of making the application. Consequently, the interpretation by the respondent is inappropriate.

8. Hence, the writ petition is allowed. Annexure-H is quashed. The respondents are directed to appoint the petitioner on compassionate grounds in terms of the relevant Rules and Regulations within a period of eight weeks from the date of receipt of copy of this order.

Rule issued and made absolute.