
(2006) 05 AHC CK 0286

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 28535 of 2006

Union of India and Another

APPELLANT

Vs

Shashank Goswami and Another

RESPONDENT

Date of Decision : 23-05-2006

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 05 AHC CK 0286

Hon'ble Judges : Sanjay Misra, J;R.K. Agrawal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.K. Agrawal, J.—We have heard Sri Amit Sthalekar, learned counsel for the petitioner, and Sri Amrendra Kumar Srivastava, appearing for respondent no. 1 and perused the order dated 7.12.2005 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 728 of 2004. The father of the respondent no. 1, Sri Anand Kishore Gautam, who was working as Senior Accountant in the office of the Accountant General, Allahabad died in harness on 19.3.2001. His wife Smt. Rashmi Gautam applied in the year 2001 itself for appointment of her son Sri Shashank Goswami, presently arrayed as respondent no. 1, on compassionate ground. His case was considered by the Department Selection Committee in the year 2001. It was rejected vide communication made on 7.1.2002. The mother of the respondent no. 1 thereafter made several representations but nothing came out and, therefore, the respondent no. 1 filed Original Application No. 930 of 2003 before the Central Administrative Tribunal. During the pendency of the aforesaid application, the respondent no. 1 was informed that in view of the new parameters, his case was again being considered. Original Application No. 930 of 2003 was disposed by the Tribunal vide order dated 31.10.2003 with a direction to the authorities to consider the claim in the light of the order dated 27.8.2003. After considering the matter, the authorities rejected the application for grant of compassionate

appointment vide order dated 28.1.2004. The authorities claimed that total retiral benefits granted to the wife of late Sri Anand Kishore Gautam deceased was about Rs. 4.40 lacs in addition to family pension of Rs. 3,100/- p.m. for a period of 7 years and thereafter it would be reduced to Rs. 1,860/- p.m. The claim was rejected keeping in view all the terminal benefits, immovable property and liabilities of the family. The Tribunal relying upon a decision of the Apex Court in the case of Govind Prakash Verma v. Life Insurance Corporation of India and others, (2005) 10 SCC 289, has allowed the application on the ground that the terminal benefits are not to be taken into consideration. In paragraph 6 of the aforesaid judgment, the Apex Court has held as follows:-

In our view, it was wholly irrelevant for the departmental authorities and the learned Single Judge to take into consideration the amount which was being paid as family pension to the widow of the deceased (which amount, according to the appellant, has now been reduced to half) and other amounts paid on account of terminal benefits under the Rules. The scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules..... The terminal benefits received by the widow and the family pension could not be taken into account.

2. Sri Amit Sthalekar has relied upon the two decisions of the Apex Court in the case of Punjab National Bank and Others Vs. Ashwini Kumar Taneja, , and General Manager (D and PB) and Others Vs. Kunti Tiwary and Another, , in which the Apex Court has held that the terminal benefits received and other immovable and movable properties possessed by the family of the deceased employee is to be taken into consideration while processing the application for compassionate appointment.

3. We find that all the three decisions, the two relied upon by Sri Amit Sthalekar and the other relied upon by the Tribunal, have been decided by the two Hon''ble Judges and are all of co-ordinate Benches.

4. As the Tribunal has followed the decision and the order of the Tribunal is in conformity with the law laid down by the Apex Court in the case of Govind Prakash Verma (supra), we do not find any good ground to exercise our supervisory jurisdiction under Article 226 /227 of the Constitution of India. The writ petition fails and is dismissed in limine.