

(2002) 01 PAT CK 0032
In the Patna High Court
Case No : L.P.A. No. 458 of 2001

Union of India (UOI) and Others

APPELLANT

Vs

Sarojini Mishra

RESPONDENT

Date of Decision : 24-01-2002

Acts Referred:

Citation : (2002) 1 PLJR 733

Hon'ble Judges : R.S. Garg, J; Nagendra Rai, J

Bench : Division Bench

Advocate : S.N. Pathak, for the Appellant; Ram Suresh Rai and Rang Nath Choubey, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is directed against the order passed by the learned single Judge dated 15.1.2001 in C.W.J.C. No. 13170 of 2000 whereby a direction has been issued to provide appointment to the writ Petitioner-Respondent on compassionate ground.

2. The facts necessary for disposal of the present appeal are that the husband of the writ Petitioner, late B.B. Mishra was an employee in the Ministry of Defence and was holding Class II Gazetted Officer Post. He died on 5.8.1994. The deceased was a resident of the District of Buxar in the State of Bihar and his family was residing there. After the death of the employee, his family was put in bad financial condition and they approached the authorities for appointment of the eldest son of the writ Petitioner on compassionate ground. Thereafter steps were taken and the eldest son of writ Petitioner, Brijesh Kumar Mishra was interviewed. He was asked to file certain documents and the same were filed. Thereafter the prayer was rejected by the impugned order. It is also an admitted position that the deceased has three sons and three daughters.

3. From perusal of the counter affidavit, it appears that the prayer for appointment on compassionate ground has been rejected on two grounds; firstly

that Brajesh Kumar Mishra, eldest son of late B.B. Mishra, the deceased was above 25 years of age at the time of his father's death and was married and as such he cannot be considered dependant upon the deceased Government servant. Learned a single Judge held that no provision was brought to the Court's notice that only because a person is married and has attained 25 years of age, he will be treated disqualified for the benefit of appointment on compassionate ground.

4. Appointment on compassionate ground is made to enable the family members of the deceased employee to mitigate the hardship resulting due to sudden death of the bread earner. Even before this Court the learned Counsel for the Appellants did not bring out any provision contending the grounds mentioned in the impugned order to reject the claim.

5. Learned Counsel for the Union of India, however, submitted that the writ application before this Court was not maintainable as no cause of action has arisen in the State of Bihar. We are not convinced of the submission advanced on behalf of the Union of India. The family of the deceased employee was admittedly residing in the District of Buxar within the State of Bihar. The authorities made correspondences with the Appellants at his village home situated in Bihar. In that view of the matter, in our view, part of the cause of action will be also treated to have arisen within the jurisdiction of this Court. This apart asking the family, which has lost its bread earner and is also suffering from economic hardship, to file writ application at the place where the defence personnel was employed, in our view, will not serve the cause of justice, on the other hand it will put the family members to further peril.

6. In the result, there is no merit in the appeal. The same is dismissed.