
(2010) 08 RAJ CK 0113
In the Rajasthan High Court

Union of India (UOI) Ors.

APPELLANT

Vs

Chandresh Kumar

RESPONDENT

Date of Decision : 20-08-2010

Acts Referred:

Citation : (2010) 08 RAJ CK 0113

Hon'ble Judges : Jagdish Bhalla, J;Dinesh Maheshwari, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. By way of this writ petition, the petitioners seeks to challenge the order dated 03.05.2010 passed by the Central Administrative Tribunal, Jodhpur Bench, Jodhpur ("the Tribunal") in Original Application (OA) No. 209/2007 whereby, while allowing the OA filed by the respondent-Chandresh Kumar @ Chunni Lal, the Tribunal has directed the petitioners to reconsider his claim for appointment on compassionate grounds within three months from the date of receipt of the copy of the order.

2. Briefly put, the relevant aspects of the matter are that Shri Ratan Lal Paliwal, the father of the applicant, while working on the post of EDMC, village post office Kelwa, District Rajsamand died on 25.10.2000 leaving behind his wife and two sons. The case of the applicant had been that he applied for compassionate appointment by the application dated 27.10.2000 but was informed about rejection of such prayer by the communication dated 14.10.2005 on the ground that the condition of the applicant was not that of an indigent person. The applicant further submitted that ever since the death of his father, he was discharging the duties in Kelwa post office under the verbal orders w.e.f. 27.10.2000 and continued as such until 28.03.2007 when his services came to be terminated. The said termination order dated 28.03.2007 was questioned by the applicant in another OA that was allowed by the Tribunal by its order dated 20.03.2009 after finding that the termination effected without opportunity of hearing was improper; but the Department was left free to take action in

accordance with the Rules. The said order dated 20.03.2009 was challenged by the petitioners in CWP No. 4380/2009 that was dismissed by a coordinate Division Bench of this Court by the order dated 17.02.2010 finding no error on the part of the Tribunal.

3. On the other hand, in the OA leading to this writ petition (OA No. 209/2007), the Tribunal was of opinion that there had been dispute on facts regarding the financial condition and earnings of the family; and found that the matter required reconsideration for deciding the claim of the applicant for compassionate appointment. The Tribunal, therefore, directed the petitioners to reconsider the case of the applicant for appointment on compassionate basis.

4. Seeking to question the order passed by the Tribunal, the Learned Counsel for the petitioners vehemently argued that on one hand, the Tribunal has directed the petitioners to continue with the services of the applicant on Group ?D? post in the order dated 20.03.2009 and on the other hand, by the impugned order dated 03.05.2010, the Tribunal has directed the petitioners to reconsider the case of the applicant for appointment on compassionate grounds; and the two orders run contrary to each other. It is further submitted that the competent authority after objective assessment had already rejected the case of the applicant for appointment on compassionate basis and hence, the directions of the Tribunal for reconsideration are not sustainable.

5. During the course of submissions, the Learned Counsel has placed before us for perusal a copy of the order dated 17.02.2010 as passed in CWP No. 4380/2009 that was filed against the said order dated 20.03.2009.

6. Having given a thoughtful consideration to the submissions made and having examined the material placed for perusal, we are unable to find any reason to show interference in this writ petition.

7. The contention urged by the Learned Counsel for the petitioners with reference to the order dated 20.03.2009 (as affirmed by this Court in the order dated 17.02.2010 passed in CWP No. 4380/2009) is, in our opinion, entirely misplaced. It is found from the narration of facts in the order dated 17.02.2010 that irrespective of the claim of the applicant for compassionate appointment, he was admittedly appointed on 03.01.2001 and was indeed serving the petitioners until 28.03.2007. In the given fact situation, this Court found the Tribunal justified in setting aside the termination order passed without adherence to the requirements of the Rules. In the order as affirmed by this Court, the Tribunal had, while directing reinstatement of the applicant, left it open for the present petitioners to take action in accordance with the Rules. The claim, however, of the applicant for regular appointment on compassionate basis stands on entirely different footings and shall have to be dealt with on different considerations. We are unable to find any basis to say that the order as passed by the Tribunal in the said other OA on 20.03.2009 (as affirmed by this Court on 17.02.2010) stands in conflict with the order impugned in the present writ petition as passed on

03.05.2010.

8. All that the Tribunal has directed by the impugned order dated 03.05.2010 is to reconsider the case of the respondent-applicant with a view to find out if he could be granted compassionate appointment? Such direction, in our opinion, can always be issued by the Tribunal if it is noticed that while considering the case earlier, certain factors got over-looked or there was no proper application of mind to the material facts. The direction to reconsider, obviously, means reconsideration of the case of the person concerned in the light of the directions issued in the order. The order as passed in the present case, in our opinion, remains unexceptionable.

9. In a comprehensive view of the matter, we are clearly of opinion that this writ petition remains bereft of substance and does not merit admission.

10. Accordingly, the writ petition stands dismissed.