
(2019) 09 RAJ CK 0125
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9924 Of 2019

Varun Sharma

APPELLANT

Vs

Jaipur Vidhyut Vitran Nigam Limited And Ors

RESPONDENT

Date of Decision : 02-09-2019

Acts Referred:

Rajasthan Compassionate Appointment Rules, 1996 — Rule 5
Constitution Of India, 1950 — Article 14, 16
JVVNL Compassionate Appointment Of Dependents Of Deceased Nigam Servants
Regulations, 2016 — Regulation 5(1)

Citation : (2019) 09 RAJ CK 0125

Hon'ble Judges : Mohammad Rafiq, J;Prakash Gupta, J

Bench : Division Bench

Advocate : Rajendra Soni

Final Decision : Dismissed

Judgement

This writ petition has been filed by Varun Sharma challenging communication dated 23.04.2019 by which respondent Jaipur Vidyut Vitran Nigam Limited (for short 'JVVNL') has rejected his application for compassionate appointment as also constitutional validity of Regulation 5(1) of the JVVNL Compassionate Appointment of Dependents of Deceased Nigam Servants Regulations, 2016 (for short 'the Regulations of 2016').

Learned counsel for the petitioner submitted that father of the petitioner Shri Ram Kishore Sharma was appointed as Helper with the respondents on 16.08.1971. He expired while on duty on 02.12.2005. At the time of his death, mother of the petitioner was in government service as teacher. Arun Sharma, elder brother of the petitioner filed an application seeking appointment on compassionate ground but the same was rejected by the respondents on the ground that widow of the deceased-employee was already in government service, therefore, appointment on compassionate ground cannot be given. Learned counsel submitted that now the widow of the deceased has retired from

service on 31.10.2018. At present there is no one to look after the family of the deceased. The petitioner after retirement of his mother submitted an application to the respondents seeking appointment on compassionate ground with the prayer that he should be appointed on the post of LDC by giving relaxation in time on 01.04.2016. The petitioner passed B.Com in the year 2014 and M.Com in the year 2016 from University of Rajasthan. When the respondents did not take any action on the application of the petitioner, he served them with a notice for demand of justice on 09.04.2019 but to no avail. It is thereafter that the respondents vide communication dated 23.04.2019 rejected the application of the petitioner. Learned counsel for the petitioner submitted that the respondents have mechanically rejected application of the petitioner. Regulation 5(1) of the Regulations of 2016 provides that when a Nigam servant dies while in service one of his/her dependent may be considered for appointment in Nigam Service subject to the condition that the employment under these regulations shall not be admissible in cases where the spouse or at least one of the sons, unmarried daughter, adopted son/unmarried daughter of the deceased Nigam's servant is already employed on regular basis under the Central/ any State Government, Nigam or Statutory Board, Organisation/Corporation owned or controlled wholly or partially by the Central/any State Government at the time of death of the Nigam's servant or at the time of the appointment of the dependent. This rule is ultra vires of the Constitution of India as it is violative of Articles 14 and 16 of the Constitution of India.

Having heard learned counsel for the petitioner and perused the material on record, we find that in the order of rejection of application of the petitioner, the respondents have conveyed to the petitioner that application filed by his elder brother was already rejected vide order dated 01.01.2006 on the premise that his mother was in government service and Regulation 5(1) of the Regulations of 2016 clearly provides that when a Nigam servant dies while in service one of his/her dependent may be considered for appointment in Nigam Service subject to the condition that the employment under these regulations shall not be admissible in cases where the spouse or at least one of the sons, unmarried daughter, adopted son/unmarried daughter of the deceased Nigam's servant is already employed on regular basis under the Central/ any State Government, Nigam or Statutory Board, Organisation/Corporation owned or controlled wholly or partially by the Central/any State Government at the time of death of the Nigam's servant or at the time of the appointment of the dependent.

It is trite that appointment on compassionate ground is an exception to the rule and the rule is that if any citizen is desirous of seeking public employment, he/she has to compete with all eligible candidates and then secure appointment on merits. The act of benevolence on the part of the Government can always be subjected to reasonable restrictions. Regulation 5(1) of the Regulations of 2016 provides that if spouse of the deceased government employee is already in employed on regular basis under the Central/ any State Government, Nigam or Statutory Board, Organisation/Corporation owned or controlled wholly or partially

by the Central/any State Government at the time of death of the Nigam's servant, his/her dependent will not be considered for appointment on compassionate ground. This is a reasonable restriction on solitary purpose of ensuring that compassionate appointment does not become source of recruitment and the same is to be provided to the most deserving and needy persons. Even otherwise validity of Rule 5 of the Rajasthan Compassionate Appointment Rules, 1996, which is identical to Regulation 5(1) of the Regulations of 2016 involved in the present case, has already been upheld by this Court in The Board of Raj. & Another Vs. Rajendra & 3 Others, 2001 (2) WLC (Raj.) 51.

In view of above, we do not find any merit in this writ petition and the same is accordingly dismissed.

Stay Application No. 9132/2019 also stands dismissed.