
(2006) 05 P&H CK 0154
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7192 of 2006

Vinod Kumar and Others

APPELLANT

Vs

State Bank of India and Another

RESPONDENT

Date of Decision : 11-05-2006

Acts Referred:

Citation : (2006) 3 LLJ 999 : (2006) 143 PLR 771

Hon'ble Judges : S.S. Nijjar, J; Ajai Lamba, J

Bench : Division Bench

Advocate : Narender Hooda, for the Appellant;

Judgement

S.S. Nijjar, J.—The father of the petitioner died on 23.2.2001. The claim of the petitioner for appointment on compassionate grounds were rejected by the respondent bank on 20.5.2002. The petitioner made representations. The same have also been dismissed by Order dated 30.9.2003. While dismissing the claim of the petitioner, the respondents have noticed that after the death of the employee, after paying the debt, a balance amount of Rs. 1,98,000/- was due and payable to him which has been duly paid along with interest. The family is in receipt of family pension of Rs. 2,653/-. The claim of the petitioner has been rejected by taking into consideration the law laid down by the Supreme Court in the case of Umesh Nagpal v. State of Haryana 1994 (3) S.C.T. 174 P&H.

2. Learned counsel for the petitioner vehemently argues that the amount received by the family of the deceased as terminal benefits should not have been taken into consideration by the respondents. He relies on a Division Bench judgment of this Court in the case of Balwan Singh v. State of Haryana and Anr. 1998 (4) R.S.J. 691.

3. We have perused the aforesaid judgment. We notice that the judgment rendered by the Supreme Court in Umesh Nagpal's case (supra) was not brought to the notice of the Hon'ble Division Bench. In Umesh Nagpal's case (supra), the Supreme Court considered the factors which should guide the authorities while

giving appointment in public services on compassionate grounds. It has been observed that as a rule, appointment in public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule, one exception is permitted in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration, taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The Supreme Court observed as follows:

2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. However, an exception, out of pure humanitarian considerations has been made in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. A provision is, therefore, made to enable the family to make both ends meet. The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for the post held by the deceased. Furthermore, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered

by the erstwhile employment which are suddenly upturned.

4. The observations of the Supreme Court clearly enjoins on the authority to take into consideration the financial condition of the family of the deceased. The aforesaid ratio of the Supreme Court cannot be curtailed by holding that financial condition of the family of the deceased would be considered without taking into consider the benefits received by the family of the deceased on the demise of the employee. The view expressed by the Division Bench in the case of Balwan Singh (supra) is contrary to the law laid down by the Supreme Court in the case of Umesh Kumar Nagpal "s case (supra). The observations made by the Supreme Court in the case of Umesh Kumar Nagpal (supra) have been specifically approved and followed by the Supreme Court in the case of Haryana State Electricity Board v. Naresh Tanwar and Anr. Etc. etc. 1996 (1) R.S.J. 792. In the aforesaid case, the Supreme Court whilst approving the observations made by the Supreme Court in Umesh Kumar Nagpal's case (supra), also considered the ratio of an unreported decision of the Supreme Court in the case of Jagdish Parsad vs. State of Bihar C.A. No. 10682 of 1995, decided on 13.11.1995. In that case, the question of appointment on compassionate ground to an applicant who was four years old at the time when his father an ex-employee died in harness, came up for consideration. It was contended before the Supreme Court that since the appellant was minor when the father died in harness, compassionate circumstances having continued till the date he made an application for appointment, he was entitled to be appointed on compassionate ground. Such contention was not accepted by the Court below and upholding the rejection of such claim for appointment, the Supreme Court has observed as follows:

The very object of appointment of a dependent of the deceased employees who die in harness is to relieve unexpected immediate hardship and distress caused to the family by sudden demise of the earning member of the family. Since the death occurred way back in 1971, in which year, the appellant was four years old, it cannot be said that he is entitled to be appointed after he attained majority long thereafter. In other words, if that contetion is accepted, it amounts to another mode of recruitment of the dependent of a deceased Government servant which cannot be encouraged, de hors the recruitment rules.

5. In view of the law laid down by the Supreme Court, we find no infirmity in the order passed by the authorities.