

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 536 of 1995

in

SPECIAL CIVIL APPLICATION No 13331 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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FAKRUDDIN USMANBHAI SUMERA

Versus

ONGC

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Appearance:

MR SP HASURKAR for Petitioner

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE S.D.PANDIT

Date of decision: 30/06/97

ORAL JUDGEMENT(Per:Pandit.J)

Fakruddin Usmanbhai Sumera original petitioner in  
SCA No.1331 of 1993 has preferred the present appeal  
against the order passed by the learned single Judge On

15.2.95.

2. The father of the petitioner was working as a security personnel with the respondent ONGC. He died on 23.1.94 when he was on duty. The ONGC is having a scheme for providing financial assistance as well as making appointment on compassionate ground. As per the said scheme, it seems that the employer-respondent-ONGC had offered an amount of Rs. 45,000/- initially which was raised to Rs. 85,000/- for the family of a deceased employee. But it seems that same offer was not accepted and thereafter present petition was filed in August 1993.

3. The claim of the petitioner was resisted by the respondent ONGC on three grounds. It was contended that the petition for appointment on compassionate ground was not tenable in view of the provisions of the said scheme for appointment on compassionate grounds. It was further contended that the employer ONGC if, happened to offer the amount as per the Scheme to meet with the needs of the bereaved family, then there could not be a policy to give appointment on compassionate grounds and lastly it was contended that the petition was filed at a very late stage and therefore, it deserves to be dismissed.

4. The father of the petitioner was admittedly working as a security personnel and there is no dispute of the fact that he died on 23.1.84 while on duty. But if we peruse respondent's scheme, then it would be quite clear that as per the said scheme, if a deceased employee has got service of more than 3 years at the time of his death, then there could be appointment on compassionate grounds. In the affidavit in reply filed by the ONGC it has been clearly stated that the petitioner's father was born on 29.4.1928 and he was to retire at the age of 58. Therefore on the date of his death he was having less than 3 years's service. Therefore, under the terms of the scheme for getting compassionate appointment, the petitioner is not entitled to claim and get appointment on compassionate grounds. In view of the said stand, which could not be rejected, it is quite clear that the petitioner's claim to get appointment on compassionate grounds was not tenable.

5. The scheme framed by the ONGC further shows that under the said scheme it is open for the ONGC either to give appointment on compassionate ground or to give sufficient money so as to over come the difficulties which the family had to meet with on account of sudden death of the bread earner. Admittedly present petitioner was a minor at that time. The mother of the petitioner

was not in a position to get appointment of compassionate grounds because she was not possessing the necessary qualifications for getting the appointment. Therefore, in the circumstances, the amount of compensation was offered under the scheme and that amount was Rs. 85,000/- . When the said amount of Rs. 85,000/- was offered to the petitioner's mother, as per the provisions of the said scheme, they were not justified in refusing to accept the said amount and to insist for appointment on compassionate grounds.

6. It must be mentioned that death of the father of the petitioner has taken place on 23.1.84. It is also not quite clear from the material on record that there was any vacancy for giving such appointment. Therefore, in view of all the above circumstances, the order passed by the learned single Judge in rejecting the petition of the present petitioner could not be said to be either illegal or against the provisions of law. We do not find any illegality in the order passed by the learned single Judge. The LPA therefore, is liable to be dismissed and the same is accordingly dismissed. No order as to costs.

(C.K.Thakker.J)

(S.D.Pandit.J)