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C.W.2024/2001

protected pursuant to the interim order passed in that writ petition. However, the said writ petition was dismissed on 13.2.2001 as the counsel for the petitioner could not appear on that day. The petitioner was dismissed from employment on 15.2.2001. On 23.3.2001 this Court allowed the petitioner to file fresh writ petition to raise same question as was raised in the previous writ petition as the impugned order which is at page 48 of the paper book was not assailed in the petition. That is how this writ petition has been filed.

Short controversy arises in view of the stand taken by the respondent in the counter affidavit. Only reason stated in the counter affidavit of the respondent is that the family income of the family of the petitioner was more than Rs.2,000/-. In the counter affidavit filed by the respondent the total family income of the petitioner at the time of death of his father was Rs.2320/-which as follows:

Rs. 535	Family Pension
Rs. 610	Dearness Allowance
Rs. 75	Medical Allowance
Rs. 300	Income of the widow of the deceased
Rs. 800	Income of the elder brother.
Rs. 2320	Gross Monthly income of the

family of Petitioner No.2.

There is no dispute that the policy of the respondent with regard to compassionate appointment was to the following effect:

"Income of all the family members shall be taken into account for the above purpose. The family members separated before the death of the employee shall not be taken into account. The verification of which shall be made by obtaining rationing card."

The father of the petitioner died on 21.11.94 and the mother of the petitioner applied for appointment of her younger son (petitioner herein) on compassionate ground on 5.12.94. The representation of the petitioner's mother was disposed of by the respondent on 10.11.2000 that is after the gap of almost six years. The same is based on an information supplied by the mother of the petitioner on 26.2.96, wherein it was pleaded that elder son has been appointed as an attendant in a private company and he is being paid Rs.800/-. In the said letter it was also informed that the petitioner's mother did not get any benefit out of his salary as he spends the same on his education and he instead of contributing any money towards household

expenses he fights with her. It was further stated that the elder son was not responsible towards his duties. This stand was taken by the mother of the petitioner in a representation dated 29.7.96 which is at page 26 of the paper-book. In paragraph 2 of the said representation it has been stated as follows:

"Om Prakash is my eldest son. This son of mine has always been a big problem to me and my family. He has always been careless and non supporting. This is why I applied for a job for my younger son, Gopal Chand, and not for him. He was unemployed when Gopal Chand started working on daily wages. Meanwhile he got a casual labour for some months but now again he is without any work. He does not sustain family in any way. However, he is a cause of quarrels and clashes in the family. Please help me to get rid of this problem too.

In view of the aforementioned facts and in view of the policy of the respondent which is at page 88 of the paper book, letter dated 30.9.94, whereas, the Government has increased the limit of monthly family income w.e.f. 1.5.94 to 2000, it was incumbent upon the respondent to have ascertained as to whether the family income of the petitioner was more than Rs.2000/-. Simply because the writ petition was dismissed on 13.2.2001, the service of the petitioner was dispensed with on 15.2.2001. The order dated 10.11.2000 is without taking

into consideration all the relevant facts which would determine the family income of the petitioner. Nothing has been placed on record by the respondent as to on what basis income of Rs.2,000/- is attributed to the family when mother of the petitioner had been stating that elder son is not contributing towards family income. The net result is that action of the respondent suffers from non-application of mind, irrationality and arbitrariness and therefore, letter dated 10.11.2000, is hereby quashed. The respondent is directed to consider the representation de novo of the petitioner by taking into consideration the material as discussed above as to whether the family income is more than Rs.2000/-. The respondent shall dispose of the matter within a period of 4 weeks from today.

In view of above directions, the writ petition as well as application stands disposed of.

Rule is made absolute.

September 11, 2002
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(Vijender Jain)
JUDGE