

***THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

-

W.P.No.21051 of 2005

-

% 28.11.2005

-

Between:

V. Prasanthi

...Petitioner

And

State Bank of India, rep. by its Chairman,

And Managing Director, Mumbai and others

...Respondents

! Counsel for the Petitioner: Sri V.Venkataramana

^ COUNSEL FOR THE RESPONDENTS: Sri K.Srinivasa Murthy,

Standing Counsel

< Gist:

> Head Note:

? CITATIONS:

2003(4) ALD 332

2004 SCC (L&S) 938

(1994) 4 SCC 138

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.21051 OF 2005

-

Dated 28-11-2005

Between:

V. Prasanthi

...Petitioner

And

State Bank of India, rep. by its Chairman,

And Managing Director, Mumbai and others

...Respondents

THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

W.P.NO.21051 OF 2005

-

ORDER:

-

The father of the petitioner was employed as Special Assistant in the State Bank of India. Pleading that he is suffering from acute mental depression, he sought for retirement on medical grounds. On the basis of the assessment made by the Medical Board, he was invalidated from service with effect from 07-03-2001.

Petitioner states that the respondents have evolved a Scheme for providing employment to dependents of retired employees on compassionate grounds. She submitted an application for this purpose on 05-05-2001, for extending such a relief. The respondents rejected the same through their letter dated 30-12-2002. The petitioner challenges the action of the respondents in not providing her employment on compassionate grounds.

Petitioner contends that the reason stated by the respondents for rejection of her claim was untenable and contrary to the law laid down by this Court and the Supreme Court. She urges that the retirement benefits extended to her father were not even sufficient to meet the liabilities, and the family is in penury, even as of now.

Learned counsel for the petitioner submits that as long as the Scheme for providing employment to the dependents of the employees who were retired on medical grounds is in vogue, the respondents are under obligation to extend the benefit under the Scheme, to the petitioner. It is also contended that the benefits, such as, pension and gratuity, which are extended to an employee, on retirement, cannot be taken into account, while considering the case of the dependent, for providing appointment on compassionate grounds.

Learned Standing Counsel for the respondents, on the other hand, submits that providing appointment on compassionate grounds is not a matter of course, and such facility can be extended only where the family is found to be in penury, or in a distressed condition, due to the death, or retirement on medical grounds, of an employee. He places reliance upon the judgment of this Court in ***K.R.Sulochana***

Devi v. Chairman, Railway Board, New Delhi and the judgment of the Supreme Court in ***Punjab National Bank v. Ashwini Kumar Taneja***.

The father of the petitioner retired on medical grounds on 07-03-2001. The respondents have formulated a Scheme for providing employment to dependents of the employees, who died, while in service, or those, who are retired on medical invalidation. Such Schemes are in vogue in several Government departments and public sector undertakings. They were framed, basically to ensure that the family of such employees is not exposed to financial hardship, or distressed conditions, on account of the death or retirement, on medical grounds, of an employee. Slowly, it has taken in the shape of providing employment in such cases, as a matter of course, irrespective of the financial condition of the family. In ***Umesh Kumar Nagpal v. State of Haryana*** the Supreme Court held that the employer has to examine the financial condition of the deceased employee, and it is only on being satisfied that the family will not be able to meet the crisis, that compassionate appointment can be offered. In ***K.R.Sulochana Devi v. Chairman, Railway Board, New Delhi*** (1 supra), this Court discussed the matter at length, and held as under:

Para-29: For the foregoing reasons, it is held that:

- a. Any Organisation where the Scheme for providing employment on compassionate grounds to the dependents of employees who die in harness, is prevalent, the Scheme should be extended to only those families where there does not exist any other earning member in the family. For this purpose, the family shall include mother, father and their children. The fact that there was any divorce between father and mother or that the employed children are living separately shall not be of any consequence.
- b. If on the death of such employee, the benefit extended to the dependents of the employee is Rs.1,00,000 (Rs. One lakh only) or more, in any form, such as, pension, gratuity, provident fund, no member of the family of the deceased employee shall be entitled for compassionate appointment.
- c. Where any Organisation is undertaking reduction of its employees by introducing VRS or other Schemes, the cases of candidates, who are otherwise eligible, need not be considered on compassionate grounds. However, as and when recruitment takes place, the cases of such candidates shall be considered by giving relaxation of age, if required, in favour of such candidates to the extent of the period between the date of the death of the employee and the date of recruitment, if the financial condition of the family continues to be so.
- d. Appointment of eligible candidates on compassionate grounds will be

only to Class IV posts and not beyond that; irrespective of the qualifications held by the candidates.

- e. At any given point of time, the extent of such appointments shall not exceed 10% of the cadre to which the appointment is made”.

Recently, the Supreme Court had an occasion to deal with this very issue, in ***Punjab National Bank v. Ashwini Kumar Taneja*** (2 supra). In that case, the High Court of Rajasthan took the view that the benefits, which are extended to the family of an employee on retirement or death, cannot be taken into account, while considering the application for providing appointment on compassionate grounds, to the dependents. The Supreme Court did not agree with that approach. It further held as under:

“...Out of purely humanitarian consideration and having regard to the fact that unless some source of livelihood is provided the family would not be able to make both ends meet, provisions are made for giving appointment to one of the dependants of the deceased who may be eligible for appointment. Care has, however, to be taken that provision for ground of compassionate employment which is in the nature of an exception to the general provisions does not unduly interfere with the right of those other persons who are eligible for appointment to seek appointment against the post which would have been available, but for the provision enabling appointment being made on compassionate grounds of the dependant of the deceased employee. As it is in the nature of exception to the general provisions, it cannot substitute the provision to which it is an exception and thereby nullify the main provision by taking away completely the right conferred by the main provision”.

In the instant case, it is not in dispute that the father of the petitioner has been extended the financial benefits of about Rs.3,00,000/-, on his retirement. He is also being paid pension. Reference to these facts is made not with an object of indicating that the family is well of, and that the petitioner does not need any help. The effort is only to drive home the point that the petitioner cannot be treated on priority basis, when compared to the qualified unemployed persons, who are reeling under utter poverty.

This Court does not find any basis to interfere with the impugned order, and the writ petition is accordingly dismissed. There shall be no order as to costs.

Dt.28-11-2005 **L. NARASIMHA REDDY, J.**

Note: *L.R copy to be marked.*

(B/O) KO