

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

O R D E R

Devilal Dangi v. State of Raj. & Ors.

S.B.CIVIL WRIT PETITION NO.2609/1995
under Article 226 of the
Constitution of India.

Date of Order : 29th July, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Lalit Kawadia, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

By order impugned dated 28.12.1994 the collector, Udaipur rejected the application preferred by the petitioner under Rule 5 of the Rajasthan Recruitment of Dependent of Government Servants died while in Service Rules, 1975 (hereinafter referred to as "the Rules of 1975").

The facts in brief giving rise to present writ petition are as follows:-

The petitioner is adopted son of Shri Prem Shankar who died on 15.7.1993 while in service of respondents. At the time of death Shri Prem Shankar was working as Class-IV employee in the office of Tehsildar, Girwa District Udaipur. The petitioner after obtaining a succession certificate on 18.2.1994 from the Court of District Judge, Udaipur submitted an application for appointment on compassionate grounds under Rule 5 of the Rules of 1975 on 23.2.1994. Under the directions of Collector, Udaipur the Tehsildar Girwa conducted an inquiry and verified the fact that the petitioner is adopted son of Late Shri Prem Shankar. The Collector, Udaipur by order impugned dated 28.12.1994 without assigning any reason rejected the application submitted by the petitioner, hence present petition is filed by the petitioner before this Court. A reply to the same has been filed on behalf of the respondents.

It is contended by the respondents in their reply that the petitioner was adopted as son of Late Shri Prem Shankar Dangi just five days before his death and, therefore, it creates serious doubt about genuineness of adoption and the adoption deed which is not registered. It is also contended by the respondents that the petitioner submitted application for appointment on compassionate grounds at belated stage, therefore, the Collector, Udaipur rightly rejected the same.

I have heard counsel for the parties.

The reason given by the respondents to reject the application submitted by the petitioner under Rule 5 of the Rules of 1975 is that the petitioner was adopted by Late Shri Prem Shankar as his son only five days before his death and the adoption deed is not registered, therefore, adoption appears to be doubtful is having no foundation specially in the circumstances an inquiry was made by the Tehsildar, Girwa under the instructions of Collector and the Tehsildar in quite unambiguous terms found that the petitioner is adopted son of Late Shri Prem Shankar. Merely on the count that the petitioner was adopted by Late Shri Prem Shankar as his son only five days before his death cannot be a reason to have doubt about adoption. It is also relevant to note that there is no need or requirement of the law for registration of deed of adoption. The fact of adoption cannot be doubted on the counts above.

The another contention of the respondents that the petitioner submitted an application for appointment on compassionate grounds is belated is also of no consequence as under the Rules of 1975 no limitation is prescribed for making an application.

It is true that no person can claim appointment on compassionate grounds as a matter of

right, however, at the same time the appointment is required to be provided in accordance with statutory provisions to a ward of a deceased government servant. It is not open for the employer to deny such appointments on totally non existent grounds. In the present case the petitioner submitted the application for appointment on compassionate grounds immediately after obtaining succession certificate from the court of District Judge, Udaipur. In view of it the application submitted by the petitioner by no stretch of imagination can be said to be submitted at a belated stage. In view of it the reasons given by the respondents for rejecting the application are non existent.

Accordingly, the writ petition is allowed. The respondent Collector, Udaipur is directed to consider the application submitted by the petitioner in accordance with the Rules of 1975 for providing appointment to the petitioner on compassionate grounds afresh by treating him son of Late Shri Prem Shankar.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.