

SBCivil Review Petition No.19/2006
in
SBCivil Writ Petition No.3129/1995

Yadvendra Singh
V.
Secy., Govt. of Raj., Medical & Health Department,
Raj. Jaipur & Ors.

Date of Order :: 30th January, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. R.K.Bhatia, for the petitioner.

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SB Civil Writ Petition No.3129/1995, Yadvendra Singh v. State of Rajasthan, was decided by this Court by order dated 16.9.2005. This Court while rejecting the writ petition held that appointment to the petitioner on compassionate grounds could not be given after a lapse of about 33 years from the date of death of deceased government servant.

By the instant review petition it is contended by counsel for the petitioner that the writ petition bearing No.3129/1995 was admitted by the Court on 3.3.1997. The writ petition thereafter came up for hearing before this Court on 13.9.2005 and thereafter matter was fixed for hearing on 22.9.2005. However, the matter was again listed before the Court on 16.9.2005 and on that day the writ petition was decided in absence of counsel for the petitioner. The petitioner, therefore, has prayed to hear the writ petition on merits afresh.

I have perused the record.

At the outset it is pertinent to note that this Court on 16.9.2005 disposed of the writ petition on merits, as such the prayer of the petitioner to hear the writ petition on merits is of no consequence.

Be that as it may, it is true that the writ petition was listed for hearing on 13.9.2005 and then the matter was fixed for hearing on 22.9.2005 but the writ petition came to be listed before the Court on 16.9.2005. The writ petition on that day was decided on merits. In view of the fact that the writ petition was decided in absence of counsel for the petitioner, I permitted counsel appearing on behalf of the petitioner to address the Court on merits, while pressing this review petition.

It is contended by counsel for the petitioner that government servant Shri Sohan Singh @ Sohandan Rawal died in the year 1972 and at that time no rules for appointment on compassionate grounds were in existence. A right for appointment on compassionate grounds accrued in favour of the petitioner in the year 1975 when the Rajasthan (Recruitment of Dependents of Government Servants Dying while in Service) Rules, 1975 (hereinafter referred to as "the Rules of 1975"), came into force, as such the petitioner became entitled to be employed in

government service under the aforesaid Rules on acquiring majority. According to counsel for the petitioner the respondents erroneously denied appointment to the petitioner.

I have considered the contention raised by counsel for the petitioner.

It is the position admitted that the petitioner at the first instance submitted application for appointment under the Rules of 1975 in the year 1992. The application submitted by the petitioner was not considered favourably by the respondents as the petitioner failed to satisfy the respondents that his father died while in government service. The Government also denied appointment to the petitioner on the count that he applied for appointment at a belated stage. It is well settled that appointment on compassionate grounds cannot be claimed as a matter of right. Such kind of appointment is an exception to the principles of equality. The purpose for such deviation from the principles of equality is to provide immediate hand of support to the grief stricken family of the deceased government servant. The circumstance which warrants deviation from principles of equality does not remain in existence for indefinite period, therefore, denial for appointment on compassionate grounds due to delay cannot be said unjustified.

In totality of facts and circumstances of this case the counsel for the petitioner failed to make out any case to recall the order dated 16.9.2005. The review petition, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.