

D.B.CIVIL WRIT PETITION NO. 9781/2006

Smt. Urmila Devi & anr.

v.

Union of India & ors.

Date of order : 30.03.2007.

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA  
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri R.N.Mathur for the petitioner

This writ petition is directed against the order of the Central Administrative Tribunal, Jaipur Bench dated 10.1.2006 in OA no. 593/2005 dismissing the original application of the petitioners. The petitioners who are mother and son had filed the application seeking, in effect and substance, direction to appoint petitioner no.2, Hemant Sharma, on compassionate ground on the death of Pooran Chand Sharma. The petitioners are respectively his widow and son. The petitioners have also sought quashing of the order dated 11.2.2003 by which the request for compassionate appointment was rejected.

The ground assigned in the rejection order was that the financial position of the family was not such as to justify compassionate appointment. Counsel for the petitioners submitted that the financial position of the family was determined taking into account terminal benefits which is not permissible and in this regard placed reliance on Govind Prakash Verma v. Life Insurance Corporation of India & others, (2005) 10 SCC 289. In that case no doubt it was held that compassionate

appointment cannot be refused on the ground that any member of the family had received retiral benefits on the death of the deceased government servant. Attention of the Court however does not appear to have been drawn to Punjab National Bank & ors. v. Ashwini Kumar Taneja, (2004) 7 SCC 265 and General Manager (D&PB) & ors. v. Kunti Tiwary & anr., (2004) 7 SCC 271. In the former case, the High Court had held that the retiral benefits cannot be taken into consideration while dealing with the request for compassionate appointment but it was not approved by the Supreme Court. The Supreme Court noticed that scheme had been framed laying down parameters to determine the financial condition of the family on the basis of, among other things, family pension, gratuity amount received, employee's/employer's contribution to PF, compensation, proceeds of LIC policy etc. In the instant case, the Tribunal found that a similar scheme was in vogue in the Department of Posts. The Tribunal also noticed that besides the terminal benefits, family pension etc., there were other properties and sources of income to the family.

The financial condition of the family apart, at the time of death of Pooran Chand Sharma, petitioner no.2 was admittedly a minor, aged nine years. In response to the observation that a minor could not be appointed on the death of Pooran Chand Sharma, and having regard to the object of compassionate appointment, the authorities are not supposed to wait till the petitioner attained majority, counsel referred to

Syed Khadim Hussain v. State of Bihar & ors., (2006) 9 SCC 195.

In Sanjay Kumar v. State of Bihar & ors., (2000) 7 SCC 192, the Supreme Court upheld the rejection of the claim on the ground that on the date of death of the applicant's mother, he was a minor who attained majority after “eight long years”. The following observations may usefully be quoted :

“It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.1998, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.”

It is well settled by catena of decisions of the Supreme Court and various High Courts that the object of compassionate appointment is to provide immediate financial help to the members of the bereaved family so that they can withstand the crisis caused by the sudden and premature death of the bread-earner. Compassionate appointment is an exception to the rule of equality enshrined in Article 16 of the Constitution of India. It has been upheld as a token of recognition of the past services rendered by the deceased government servant. It has nevertheless been emphasised that having regard to the object and scope of such appointment it is imperative that appointment should be made within reasonable time or not at all. Appointment after inordinate delay would not be in consonance with the spirit of Article 14 of the Constitution of

India. On the point of delay, reference may be made to decisions in State of J&K & ors. v. Sajad Ahmed Mir, (2006) 5 SCC 766 and National Institute of Technology & ors. v. Niraj Kumar Singh, (2007) 2 SCC 481.

In the instant case late Pooran Chand Sharma died on 30.10.1997, the claim for compassionate appointment was rejected on 11.2.2003 and the Original Application was filed some time in 2005. We do not think, having regard to passage of time, after ten years there is any justification for appointment of the petitioner on compassionate ground.

We thus do not find any error in the order of the Tribunal to warrant interference by this Court. The writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

(S.N.JHA), C.J.

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