

Writ Petition No. 1086 (S/S) of 2006

Vishal Saini
S/o Late Sri Mahendra Singh Saini
R/o E-40 B, Shivlok Colony
Phase-2, Tibri
Haridwar.

.....Petitioner.

Versus

Life Insurance Corporation of India
Through its Regional Manager
Regional Office, Dehradun.

.....Respondent.

Shri Lok Pal Singh, learned counsel for the petitioner.
Shri M.C. Kandpal, Sr. Advocate, assisted by Ms. Preeta Bhatt, learned
counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

By means of this writ petition, the petitioner has sought writ in the nature of mandamus directing the respondent Corporation to appoint the petitioner on a suitable post on compassionate ground on death of his father.

2. Heard learned counsel for the parties and perused the affidavit, counter affidavit and rejoinder affidavit.

3. Brief facts of the case are that the petitioner's father Mahendra Singh Saini, was Development Officer with Life Insurance Corporation of India, branch-Haridwar. He died on 13.10.2003, in service. The petitioner's case is that petitioner and his mother, who were dependents on the deceased employee, after death of Sri Mahendra Singh Saini, had gone into a deep financial crisis. It is further stated in the writ petition that after one month of death of Shri Mahendra Singh Saini, petitioner moved an application before

respondent – Life Insurance Corporation, for his appointment on compassionate ground. However, no heed is paid to the petitioner. Relying on the principle of law laid down in ***Govind Prakash Verma Vs. Life Insurance Corporation of India and others, 2005 (10) S.C.C. Pg. 289***, this writ petition is filed seeking mandamus commanding the respondent corporation to provide job to the petitioner.

4. On behalf of the respondent, counter affidavit is filed by Vidya Prakash Saxena, Manager (Legal & HPF), Life Insurance Corporation of India. In the counter affidavit, it is admitted that Mahendra Singh Saini, was Development Officer with respondent Corporation who died in October 2003. However, it is pleaded in para-8 of the counter affidavit that the matter relating to appointment of the petitioner is pending because of a lis before the civil court in which Life Insurance Corporation has been impleaded as a party in the proceedings between Mahendra Kaur (widow of the deceased), Vishal Saini (petitioner) and one Babli, who had claimed the property of the deceased. It is further stated in said para of the counter affidavit that suit No. 06 of 2004, is pending before Civil Judge, Senior Division, Haridwar. As such, it is stated in the counter affidavit that till the final decision comes from the competent court, the respondent Corporation is unable to consider the case of the petitioner.

5. Learned counsel for the petitioner drew attention of this Court to Annexure R.A. 1 to rejoinder affidavit,

which is copy of the alleged 'Will' dated 13.10.2003, relied by Babli in the lis between her and Smt. Mahendra Saini. Referring to said 'Will', it is argued on behalf of the petitioner that Babli with whom the petitioner's mother is in lis, is said to be daughter of god sister of deceased Mahendra Singh. In other words, it is clearly mentioned in the 'Will' that Babli is niece of the deceased. It is further submitted on behalf of the petitioner that in said 'Will' also it is clearly mentioned by the deceased that though the petitioner and her mother are living separately from the deceased, but they were dependent on him.

6. In the above circumstances, having gone through the contents of the alleged 'Will', copy of which is annexure- R.A. 1 to the rejoinder affidavit, and considering the submissions of learned counsel for the parties, this Court is of the view that since no one else has claimed before the respondent Corporation that he or she is dependent on the deceased, who is claiming appointment on compassionate ground, as such, respondent Corporation should have no problem in considering the case of the petitioner on merits, as per the rules as to his entitlement for appointment on compassionate ground. Had it been a case where some other dependent had sought job on compassionate ground before the respondent Corporation, the reason disclosed by the respondent Corporation in not considering the case of the petitioner could have been accepted. But that is not the case here.

7. Therefore, for the reasons as discussed above, this writ petition is disposed of directing the respondent Corporation, to consider the case of the petitioner as per the rules and the policy applicable relating to appointment on compassionate ground within a period of three months from the date of certified copy of this order is produced before authority concerned without prejudice to the rights of the parties in the civil suit.

(Prafulla C. Pant, J.)
Dt. 30.04.2008

Sweta