

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU.

SWP no. 1469/2001

Date of Decision: **17.04.2009**

Vinod Kumar & anr.

v.

State and Ors.

Coram:

MR. JUSTICE J.P.SINGH, JUDGE.

Appearing Counsel:

For Petitioner(s) : Mr.K.S.Johal, Advocate.

For Respondent(s) : Mr. S.C.Gupta, AAG.

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| i) | Whether to be reported
in Press/Journal/Media: | Yes/No. |
| ii) | Whether to be reported
in Digest/Journal : | Yes/No. |

Narotam Ram, engaged as Daily Wager, in the Mechanical Engineering Department of the State Government died on December 27, 1998, after serving as such for 29 years.

His son, Vinod Kumar, claimed compassionate appointment whereas Smt. Chander Prabha, her widow, sought Family Pension from the respondents.

Considering petitioners' case, in terms of the directions issued on their earlier Writ Petition SWP No. 891/91, the respondents have rejected their claims vide Chief Engineer, Mechanical Engineering Department, Jammu's Order no. CEM/J/159 of 2001 dated 20.02.2001, on the ground that Narotam Ram deceased was not a Permanent Resident of the Jammu and Kashmir State and as such the petitioners were not entitled to seek Compassionate appointment and Family Pension.

Aggrieved by the Chief Engineer's order, the petitioners have filed this writ petition seeking quashing of the order besides issuance of appropriate directions to

the respondents to engage petitioner no.1 under SRO 43 of 1994 and provide Pensionary benefits to petitioner no.2.

Petitioners' learned counsel submits that Permanent Resident Certificate having been issued to petitioner no.1 in the year 1993 entitles him to seek Compassionate appointment in the State Government and likewise petitioner no.2 is entitled to the Pensionary benefits accruing to her in lieu of her husband's service to the Department for 29 years.

I do not find merit in the submissions advanced on behalf of the petitioner, in that, benefits like Compassionate appointment and Pensionary benefits become available to the legal heirs and dependents only if their predecessor-in-interest was a permanent employee under the State Government.

Narotam Ram, though engaged as a daily wager, could not, in the absence of a Permanent Resident Certificate, a pre-requisite for entry into the Government Service, gain the status of a permanent Government employee during his life time.

Petitioners have neither pleaded any such case in the writ petition that Narotam Ram, their predecessor-in-interest, was a Permanent Resident of the State nor have they placed any such material on records, on the basis whereof, it may be said that Narotam Ram was a Permanent Resident of the State of Jammu and Kashmir before his death.

In view of the admitted position that Narotam Ram was not a Permanent Resident of the State of Jammu and Kashmir, his heirs cannot seek those benefits which are available to the heirs of an employee of the State Government, because Narotam Ram was disentitled to

seek entry into Government Service, or for that matter regularization in the Government Service because of his not being a Permanent Resident of the State.

Petitioner no.1's getting the Permanent Resident Certificate would not entitle him to seek Compassionate appointment until it was established that petitioner no.1's father too was a Permanent Resident of the State of Jammu and Kashmir and as such entitled to seek regularization in the State Government Service.

For all what has been said above, I do not find any error in the Chief Engineer's impugned order refusing relief of Compassionate appointment and Pensionary benefits to the petitioners.

There is thus no merit in this petition, which is, accordingly, dismissed.

(J.P.Singh)
Judge

JAMMU:
17.04.2009
Pawan Chopra