

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

S.B. Civil Writ Petition No.4755/2007
(Mangal Chand Vs. State of Rajasthan & Ors.)

Date of Order :: January 31, 2011

HON'BLE MR. JUSTICE M.N. BHANDARI

Mr.M.F.Baig, for the petitioner.
Mr.Hari Barathe, for the respondent(s).

BY THE COURT

The matter has come up on application seeking early hearing of the writ petition.

For the reasons assigned in the application, it is allowed.

With the consent of the parties, the matter was heard finally.

Petitioner is aggrieved by denying compassionate appointment in reference to the Rajasthan Compassionate Appointment of Dependents of Deceased Government Servant Rules, 1996(for short ' The Rules of 1996).

It is submitted that the petitioner's brother in Govt. service is living separately even before the death of

erstwhile Govt. servant. Hence his Govt. service should have been ignored for grant of compassionate appointment to the petitioner.

I have considered the submissions aforesaid.

Since the denial of compassionate appointment is in reference to rule 5 of the Rules of 1996, it would be gainful to quote the said rule, which is quoted thus: -

"5. Appointment subject to certain conditions :- (1) When a Government servant dies while in service one of his/her dependants may be considered for appointment in Government service subject to the condition that employment under these rules shall not be admissible in cases where the spouse or at least one of the sons, unmarried daughters, adopted son/adopted unmarried daughter of the deceased Government servant is already employed on regular basis under the central / any State Government or Statutory Board, Organisation/Corporation owned or controlled wholly or partially by the Central/ any State Government at the time of death of the Government servant.

Provided that this condition shall not apply where the widow seeks employment for herself.

(2) Appointment under these rules shall be given on the condition that the person appointed on compassionate ground shall maintain properly the other family members who were dependent on the deceased Government servant and on furnishing an

undertaking in writing that he/she shall maintain properly the other family members who were dependent on the deceased Government servant. If subsequently, at any time, it is proved that such dependent family members are being neglected or are not being maintained properly by him, the appointment may be terminated by the Appointing Authority after providing an opportunity to the compassionate appointee by way of issue of show cause notice asking him to explain why his services should not be terminated."

Perusal of the Rule quoted above does not show that if the serving ward is not living with the family, compassionate appointment can be permitted. Rule is very clear and specific denying the benefit of compassionate appointment to a family in which one of the ward is already in Govt. Service. The validity of the aforesaid rule has already been upheld.

Looking to above, I do not find any illegality calling for my interference.

This writ petition is accordingly dismissed.

(M.N.Bhandari) J.