

W.P. No. 16353/2013**30.9.2013**

Shri Vikas Mishra, learned counsel for the petitioner.

Shri Vivek Sharma, learned Panel Lawyer for respondents/State of M.P. on advance notice.

Heard.

Being aggrieved by his appointment on compassionate ground petitioner has filed this petition seeking direction to the respondents to consider.

Petitioner's father, employed as peon in Jila Sahkari Krishi Aur Gramin Vikas Bank Ltd. Birsinghpur, Satna, died in harness on 4.11.2005. An application preferred by the petitioner for appointment on compassionate ground was considered but for want of vacant post the same was turned down by the Board of Directors in its meeting held on 27.3.2006. That further request made to Commissioner, Co-operative Societies Bhopal also did not reap any result as there were no vacant post in the Bank. Yet the petitioner continued to give representation. Question is whether the action of respondents rejecting the application for compassionate appointment can be said to be just and proper.

Trite it is that the appointment on compassionate ground is not a right but a privilege and a mode to salvage the family of an employee who die in harness from instant financial penury. Thus where the family have survived for year and gracefully, no right accrues for appointment on compassionate ground.

In Steel Authority of India Limited V. Madhusudan Das and others: (2008) 15 SCC 560 it has been held:

"15.This Court in a large number of

decisions has held that the appointment on compassionate ground cannot be claimed as a matter of right. It must be provided for in the rules. The criteria laid down therefor, viz., that the death of the sole bread earner of the family, must be established. It is meant to provide for a minimum relief. When such contentions are raised, the constitutional philosophy of equality behind making such a scheme be taken into consideration. Articles 14 and 16 of the Constitution of India mandate that all eligible candidates should be considered for appointment in the posts which have fallen vacant. Appointment on compassionate ground offered to a dependent of a deceased employee is an exception to the said rule. It is a concession, not a right."

In I.G.(Karmik) and others V. Prahlad Mani Tripathi:
(2007) 6 SCC 162 it is observed:

"6.An employee of a State enjoys a status. Recruitment of employees of the State is governed by the rules framed under a statute or the proviso appended to Article 309 of the Constitution of India. In the matter of appointment, the State is obligated to give effect to the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. All appointments, therefore, must conform to the said constitutional scheme. This Court, however, while laying emphasis on the said proposition carved out an exception in favour of the children or other relatives of the officer who dies or who becomes incapacitated while rendering services in the police department .

7.Public employment is considered to be a wealth. It in terms of the constitutional scheme cannot be given on descent. When such an exception has been carved out by this Court, the same must be strictly complied with. Appointment on compassionate ground is given only for meeting the immediate hardship which is faced by the family by reason of the death of the bread earner. When an appointment is made on compassionate ground, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion."

In State of Chattisgarh and others V. Dhirjo Kumar

Sengar: (2009) 13 SCC 600 it has been held:

“12. This Court times without number has held that appointment on compassionate ground should not be granted as a matter of course. It should be granted only when dependents of the deceased employee who expired all of a sudden while being in service and by reasons thereof his dependents have been living in penury.”

In State of Gujarat and others V. Arvind Kumar T.Tiwari and another: (2012) 9 SCC 545 it has been held:

“8.It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right. It is not simply another method of recruitment. A claim to be appointed on such a ground, has to be considered in accordance with the rules, regulations or administrative instructions governing the subject, taking into consideration the financial condition of the family of the deceased. Such a category of employment itself, is an exception to the constitutional provisions contained in Articles 14 and 16, which provide that there can be no discrimination in public employment. The object of compassionate employment is to enable the family of the deceased to overcome the sudden financial crisis it finds itself facing, and not to confer any status upon it.”

In view of above pronouncement of law and the fact that the family had tide over years since 2005 and that there were no vacant post, no case is made out for direction to respondents to consider the petitioner for appointment on compassionate ground.

Petition fails and is dismissed. No costs.

(SANJAY YADAV)
JUDGE