

(2018) 06 CHH CK 0227

Chhattisgarh High Court

Case No: Writ Petition (S) No. 2177 Of 2017

M. Satyam

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision: June 29, 2018

Acts Referred:

- Constitution Of India, 1950 - Article 14, 16, 227

Hon'ble Judges: Thottathil B. Radhakrishnan, CJ; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: B.P. Rao, Abhishek Sinha

Final Decision: Dismissed

Judgement

Thottathil B. Radhakrishnan, CJ

1. This is an application under Article 227 of the Constitution of India challenging an order rendered by the Central Administrative Tribunal, Jabalpur

Bench, Circuit Bench at Bilaspur; hereinafter referred to as the 'Tribunal'.

2. Heard learned counsel for the Petitioner and the learned counsel for the Respondents-Railway.

3. M.N.B. Rao, who was a loco driver, was decategorised on 11.07.2000 as medically unfit to continue as a loco driver. He was offered alternate

employment as a junior clerk, as could have been given having regard to his health status. He refused to accept it. Thereafter, he opted for voluntary

retirement on 27.07.2000. The Petitioner is his son. He was a minor when his father opted for voluntary retirement. He is stated to have attained

majority on 15.10.2004 i.e. more than 04 years after his father's decategorisation and refusal to accept alternate employment that was offered by the

Railways. Petitioner's father M.N.B. Rao thereafter applied for compassionate appointment of his son, the Petitioner. That was not acceded by the establishment. The challenge levied by the Petitioner before the Tribunal failed. Hence, this Petition under Article 227 of the Constitution.

4. The plea is that the Petitioner's father opted for voluntary retirement because of his medical condition. This is not a case of request for compassionate appointment on the ground of the employee having died in harness. It is also the admitted situation that when M.N.B. Rao was decategorised as medically unfit to continue as a loco driver, he was offered alternate employment in the Railways. It was at his choice that he refused to accept such alternate appointment.

5. In our view, searching for better pasture for oneself or heirs and other kith and kin is something which ought not to be countenanced while permitting compassionate appointment; fundamentally because there cannot be an office of inheritance merely on the ground that somebody in public employment has become old or infirm. It has to be remembered that compassionate appointments ought to be made only in cases of dire need of succor, particularly because, it is not intended to be normal, usual and regular mode of entry into public employment and every instance of compassionate appointment reduces the chances and the rights of the open market candidates for direct recruitment. Hence, requisite rigidity has to regulate and control the flow of employer's compassion in each such case. Otherwise, it would tend to impose the equality doctrine engrained in Articles 14 and 16 of the Constitution.

6. The concept of voluntary retirement carries with it the snapping of the jural relationship between the employer and the employee on the volition of both of them. As already noted, M.N.B. Rao opted for voluntary retirement after refusing the offer of alternate employment, as could have been extended to him upon being decategorised on health grounds.

7. Taking into consideration all the relevant facts and sequence of events following the decategorisation of the Petitioner's father on medical grounds, we do not see that the employer-establishment can be criticized of having refused the compassionate appointment which was legitimately due, on the

facts, to the Petitioner. We are of the view that on the scales of justice the case of the Petitioner does not merit acceptance. Therefore, we do see

that any injustice has been caused to him by the adverse verdict handed down by the Tribunal.

8. For the aforesaid reasons, we do not propose to go into the voluminous order written by the Hon'ble Members of the Tribunal, to some extent

having conflict of opinion as to what should be the final verdict. The Tribunal ultimately noted the judgment of the Punjab and Haryana High Court

referred to therein and took the stand that the Tribunal would not look into the matter to pass any order on the basis of circulars and directives of the

Railway Board unless those decisions of the Railways are visited by the establishment following the decision of the Punjab and Haryana High Court.

Even without going into such aspects and issues, the claim of the Petitioner for compassionate appointment would stand answered by what we have stated hereinabove.

9. There is no failure of justice resulting out of the issuance of order impugned in this writ petition. Hence, we see no merit in this application under

Article 227 of the Constitution of India.

10. In the result, this writ petition is dismissed.