

(2011) 08 JH CK 0032

Jharkhand High Court

Case No: Writ Petition (S) No. 1204 of 2011

Deepak Ram

APPELLANT

Vs

Central Coalfields Limited and
Others

RESPONDENT

Date of Decision: Aug. 16, 2011

Hon'ble Judges: D.N. Patel, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

The present writ petition has been preferred by the petitioner for getting compassionate appointment, because his father has expired on 18th January, 1993 while in service of the respondents. The petitioner, being the son of the deceased employee, applied within the stipulated time for getting compassionate appointment and since the respondents have not appointed the petitioner, the present writ petition has been preferred in the year, 2011.

2. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, I see no reason to entertain this writ petition, mainly for the following reasons:

(i) Father of the petitioner, who was serving with the respondents, expired during course of employment on 18th January, 1993 and the petitioner, being son of the deceased employee, has applied for compassionate appointment.

(ii) It appears that more than one and half a dozen years has lapsed from the date of death of the father of the petitioner and, thus, the very purpose of compassionate appointment has been frustrated by now.

(iii) The Hon"ble Supreme Court in the case of [State of U.P. and Others Vs. Paras Nath](#), especially at paragraph nos. 4, 5 and 6, has held as under:

4. Seventeen years after the death of his father, the respondent, on 8.1.1986, made an application for being appointed to the post of a Primary School Teacher under the said Rules. His application was rejected. He, thereafter, filed a writ petition before the High Court. This writ petition was allowed by the High Court and an appeal from the decision of the Single Judge of the High Court was also dismissed by the Division Bench of the High Court. Hence the State has filed the present appeal.

5. The purpose of providing employment to a dependant of a Government servant dying in harness in preference to anybody else, is to mitigate the hardship caused to the family of the employee on account of his unexpected death while still in service. To alleviate the distress of the family, such appointments are permissible on compassionate grounds provided there are Rules providing for such appointments. The purpose is to provide immediate financial assistance to the family of a deceased Government servant. None of these considerations can operate when the application is made after a long period of time such as seventeen years in the present case.

6. We may, in this connection, refer to only one judgment of this Court in the case of Union of India v. Bhagwan Singh. In this case, the application for appointment on similar compassionate grounds was made twenty years after the railway servant's death. This Court observed:

"The reason for making compassionate appointment, which is exceptional, is to provide immediate financial assistance to the family of a Government servant who dies in harness, when there is no other earning member in the family.

(Emphasis supplied)

Further, the Hon"ble Supreme Court in the case of [Sanjay Kumar Vs. The State of Bihar and Others](#), especially at paragraph nos. 2 and 3, has held as under:

2. Learned Senior Counsel appearing on behalf of the petitioner has placed strong reliance on the decision of a learned Single Judge of the Patna Court in Chandra Bhushan v. State of Bihar. Learned Senior Counsel points out that it was held in that case that an applicant's right cannot be defeated on the ground of delay caused by authorities which was beyond the control of the applicant. Learned Senior Counsel further points out that instead of following the above judgment, the same learned Judge has now held on 21.4.1997 that the application is time-barred. Learned Counsel has placed before us a judgment of this Court in Director of Education (Secondary) v. Pushpendra Kumar. He submits that, in this case, a direction was given to create supernumerary posts.

3. We are unable to agree with the submissions of the learned Senior Counsel for the petitioner. This Court has held in a number of cases that compassionate appointment is intended to enable the family of the deceased employee to tide over sudden crisis resulting due to death of the breadearner had left the family in penury and without any means of livelihood. In fact such a view has been expressed in the very decision cited by the petitioner in Director of Education v. Pushpendra Kumar. It is also significant to notice that on the date when the first application was made by the petitioner on 2.6.1998, the petitioner was a minor and was not eligible for appointment. This is conceded by the petitioner. There cannot be reservation of a vacancy till such time as the petitioner becomes a major after a number of years, unless there are some specific provisions. The very basis of compassionate appointment is to see that the family gets immediate relief.

(Emphasis supplied)

5. Thus, in view of the aforesaid decisions and also looking to the fact that more than one and half a dozen years has lapsed after the death of the deceased employee, I see no reason to entertain this writ petition for granting compassionate appointment to the petitioner. Hence there is no substance in this writ petition, which is, accordingly, dismissed.