
(2011) 3 JCR 57

Jharkhand High Court

Case No: Writ Petition (S) No. 4838 of 2006

Rajesh Kumar Singh

APPELLANT

Vs

The Secretary, Ministry
of Steel and Others

RESPONDENT

Date of Decision: May 6, 2011

Citation: (2011) 3 JCR 57

Hon'ble Judges: Poonam Srivastav, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Poonam Srivastav, J.

Heard the parties.

2. The prayer in the instant writ petition is for quashing the letter No. DGM 1 /C (Pers-NW) 2006-3152 dated 26/07/2006 issued by the Deputy General Manager, Steel Authority of India Limited, Bokaro Steel Plant, Bokaro refusing appointment of the Petitioner on compassionate ground.

3. The submission of the learned Counsel is that the Petitioner's father was appointed as Dock Assistant in Bokaro Steel Plant and was working there since 1972 and his performance was to the full satisfaction of his employer. The Petitioner's father was in active service who died in harness on 17.04.2001 leaving behind his wife, one son (Petitioner) and two daughters. The son of the deceased employee i.e. the Petitioner, was married and he had also one son.

4. Smt. Damyanti Singh, widow of Late Ajay Kumar Singh, made a representation to the managing Director on 24th July, 2001 seeking appointment for her son. A recommendation was made in her favour to the General Manager (M.M.), Executive

Director (M.M.) and also to the Managing Director but No. step was taken by the management for Petitioner's appointment on compassionate ground. Consequentially, a writ petition W.P.(S) No. 1163 of 2006 was preferred in this Court which was disposed of vide order dated 12.05.2006 (Annexure-3) with a direction to decide the claim of the application of the Petitioner for compassionate appointment, if not already decided, within two months from the date of receipt/production of a copy of the said order. Consequent to the said direction, the representation has been decided by means of the impugned order and the prayer for appointment on compassionate ground has been rejected.

5. The submission is that the two daughters were married with great difficulty and the family have undergone grave financial crisis and the Petitioner, who is now aged 35 years, has become overage. He was not able to continue his education on account of paucity of funds. In the facts and circumstances, the Petitioner is entitled for an appointment. Reliance has been placed on a decision of the Apex Court in the case of Balbir Kaur and Anr. v. Smt. T.K. Meenakshi and Anr., AIR 2000 SC 1596. Extract of paragraph-13 is quoted as under:

13. Mr. Bhasme, learned Advocate appearing for the Steel Authority contended that the Family Benefit Scheme was introduced on 21st November, 1992 and the salient features of the Scheme were to the effect that the family being unable to obtain regular salary from the management, could avail of the scheme by depositing the lump sum provident fund and gratuity amount with the company in lieu of which the management would make monthly payment equivalent to the basic pay together with clearness allowance last drawn, which payment would continue till the normal date of superannuation of the employee in question. Mr. Bhasme further contended that adaptation of this Family Benefit Scheme was meant to provide an assured or regular income per month, 1 while the bulk amount deposited by way of provident fund and gratuity with the management remained intact. Mr. Bhasme, contended that consequently on deposits as above, with the management, the employee's family could avail of pay up to normal date of superannuation on the footing that the employee though not actually working but notionally continued to work till the normal date of superannuation and such a scheme in fact stands at a much better footing and much more beneficial to an employee or a deceased employee. Apparently, these considerations weighed with the High Court and the latter thus proceeded on the basis that by reason of adaptation of a Family Benefit Scheme by the Employees Union, question of any departure there from or any compassionate appointment does not and cannot arise. But in our view this Family Benefit Scheme cannot be in any way equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family - This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity, thereafter, reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment. The grief stricken family may find some solace to the mental agony and manage its affairs in the

normal course of events, it is not that monetary benefit would be the replacement of the bread earner, but that would undoubtedly bring some solace to the situation.

6. Counsel appearing for the Respondents has disputed the arguments of the counsel on behalf of the Petitioner and has Supported the decision of the Respondents dated 26/07/2006 issued by the Deputy General Manager, Steel Authority of India Limited, Bokaro Steel Plant, Bokaro. The submission is that No. doubt provision for compassionate appointment is available in Bokaro Steel Plant but it is only when the incumbent is already working and he has contacted some disease which makes him unable to continue in the service but his period of service still remains and, therefore, a provision for substitution in place of the employee is available to the son or any dependent. The counsel appearing for the Bokaro Steel Plant has also stressed the ground for rejection of the Petitioner's representation detailed in the impugned order. Late Ajay Kumar Singh did not die on account of some prolonged illness or certain other incapacitation to continue in service. Also he had not made any prayer for substituted service of his son and thus, the claim is not valid. However, I am not much inclined to give opinion about the fact whether the incumbent was suffering from permanent disease or not or whether he has sought substitution of service for his son. But the fact remains that the Petitioner's father died in the year 2001 and they have managed to survive for a period of ten years. I cannot ignore the fact that the Petitioner was already 25 years of age at the relevant time and was married with a son when the father died. He has all along never made any effort to seek employment all this time but only wants an appointment out of turn.

7. Learned Counsel has also brought to my notice that he has appeared in certain examination held by the Bokaro Steel Plant but was declared unsuccessful in the examination conducted on 30th August, 2008. Thus, evidently he is only wanting a preferential appointment over other candidates. However, this is not the subject matter of the instant writ petition and therefore, it is not to be taken in consideration.

8. Counsel appearing for the Respondent also placed reliance on the Division Bench judgment in the case of Lal Deo Oraon v. Steel Authority of India Ltd. and Ors., 2006 (4) JCR 523. The Division Bench declined to issue any direction in a compassionate appointment on the ground that there was No. Scheme for employment on compassionate ground.

9. Thus, in the instant case also, it was the employee who could apply for a substitution of his dependent to continue in his place on account of the reason he was not able to discharge his duties. But the Petitioner's father having not applied for substitution in view of the Division Bench Order of the Respondent was not liable to be interfered.

10. Another decision has also been cited by the counsel for the Respondent in the case of [Steel Authority of India Ltd. Vs. Madhusudan Das and Others](#), and the view of the Bench was that the concession for compassionate appointment cannot be claimed as a

matter of right. An appointment in case of accident arising out of and in course of employment is only given to meet extreme exigencies when the incumbent died and the family is faced with a financial crisis. The employer takes into consideration the circumstances and grants compassionate appointment.

11. The rules relating to an appointment without consideration of merit and out of turn provide only for "substituted appointments" but not in every case when an employee died while still in service leaving behind dependents. These appointments are only for meeting out exigencies that arise suddenly on death of an employee. Admittedly, this is not the case at hand.

12. In my opinion these are not the fact of the instant case and the order has been passed after taking into consideration all the circumstances.

13. Learned Counsel appearing on behalf of the Petitioner has also drawn my attention to the assertion made in paragraph-14 and 15 that certain compassionate appointments have been given arbitrarily and the Petitioner has been discriminated, I have examined this aspect as well the appointments given to the persons mentioned in the said paragraphs are not on identical footing as that of the Petitioner. These assertions have been specifically denied in paragraph-17 of the counter affidavit. Specific reply has been given that two persons were given appointment as a substituted appointment and other two persons died due to accident during the course of employment in discharge of duty. However, these factual aspects cannot be taken into consideration.

14. I am of the considered view that the instant writ petition does not call for any interference. There is No. merit in the writ petition and is accordingly dismissed.