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Urmila Devi and Others Vs The Union of India and Others

C.W.J.C. No. 4275 of 2000

Court: Patna High Court

Date of Decision: Dec. 14, 2000

Acts Referred:
Constitution of India, 1950 â€" Article 226

Citation: (2000) 2 PLJR 204

Hon'ble Judges: Radha Mohan, J

Bench: Single Bench

Advocate: K.N. Choubey, Nagendra Dubey, Dhananjay Kumar and Sunil Kumar Singh, for the Appellant; Udayan Chaudhary for Respondents nos. 2 to 5, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Radha Mohan Pd., J.
In this writ petition the original petitioner Nawal Kishore Prasad Singh has prayed for quashing of the order dated

8.12.1995, contained in Annexure 5, whereby and whereunder his claim for appointment of his sons on compassionate ground has been denied by

the respondent Company. It appears that original petitioner thereafter filed criminal case which led to filing of Cr. Misc. No. 23287 of 1996 in this

Court by the Management. The said criminal miscellaneous application was finally allowed, vide order dated 10.3.2000, contained in Annexure I

to the counter affidavit, and the order of the Magistrate taking cognizance against the Management was quashed. However, from the said order of

this Court, contained in Annexure I, it appears that an attempt was made on behalf of the petitioner to direct the management to appoint his son but

the Court declined by saying that ""no direction can be issued to the petitioners to appoint the son of the complainant"".

2. The original petitioner did not agitate his grievance earlier against the impugned order dated 8.12.1995 and it is only after the disposal of the

criminal case that the present writ petition has been filed. However, later the original petitioner died and on filing of I.A. No. 5631 of 2000 his sons

have been substituted in his place vide order dated 7.11.2000.

3. Learned counsel for the petitioners has submitted that the claim of the petitioners for appointment on compassionate ground has been denied

erroneously. The original petitioner had filed application well within time for appointment on compassionate ground in terms of the scheme then was

in force, yet the case for appointment on compassionate ground was rejected as the management erroneously raised a dispute regarding the age of

the original petitioner, which was resolved vide Annexure 6 issued on 26.3.1996 by the Assistant Secretary of the Bihar School Examination

Board.

4. Mr. Chaudhary, learned counsel appearing for the respondent Company, on the other hand, has submitted that the writ petition suffers from

gross delay and laches and it is fit to be dismissed on the said ground alone. On merit, learned counsel has submitted that in fact, the original

petitioner himself created confusion in the matter of his age by filing affidavit and application for provident fund etc. He further submitted that

presently the respondent Company is not financially sound to accommodate any fresh hand except that the Company considered only such cases

for appointment on compassionate ground where the employee dies in harness to avoid any problem regarding industrial relation. He also

submitted that in fact, the Company has introduced Voluntary Retirement Scheme (VRS) to reduce its liability.

5. This Court finds substance in the submission of the learned counsel for the respondent Company. In fact, the writ petition suffers from gross

delay and laches on the part of the petitioners, who moved this Court after four and half years of the order which has been impugned was passed.

This Court finds that the original petitioner is also equally responsible for creating confusion as regards his age. Moreover, considering the financial

condition on account of which VRS etc. has been introduced by the Company to reduce its liability, this Court does not find it to be a fit case for

exercise of discretionary jurisdiction under Article 226 of the Constitution of India.

6. The writ petition is, thus, dismissed.

7. Further, learned counsel for the petitioner has submitted that the original petitioner is dead and the respondent Company may be directed to

release the entire remaining admissible dues within a fixed time. Learned counsel for the respondent Company has fairly not opposed the said

prayer. Accordingly, this Court directs the Managing Director of the Company (respondent no. 3) to get the entire dues of the deceased original

petitioner calculated and the same must be paid along with the chart regarding details of the dues calculated within two weeks of the

receipt/production of a copy of this order.