

(2010) 11 PAT CK 0138

Patna High Court

Case No: CWJC No. 4950 of 2010

Akhilesh Kumar Choubey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Nov. 15, 2010

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Navin Sinha, J.

Heard learned Counsel for the Petitioner and learned Counsel for the State.

2. The Petitioner who is the Son of the deceased is aggrieved by the order dated 29.1.2008 denying his claim for compassionate appointment.

of the Petitioner within time. It was rejected. The rejection was not questioned in the year 2000. Any fresh claim for compassionate appointment thereafter loose its relevance unless it had been made within the period of five years. There cannot be repeated claims for compassionate appointment by different family members of the deceased at different points of time. In any event a claim for compassionate appointment is not a vested right based on a family lineage or inheritance. If the Petitioner was a minor and during his minority the time period to apply for compassionate appointment ran out, the Petitioner has no right to be considered.

3. It is submitted that the father of the Petitioner was deceased in harness on 27.5.1998. On the own showing of the Petitioner his date of birth was 1.5.1989. He was clearly a minor on the date of death and therefore ineligible to apply for compassionate appointment. His mother had submitted an application for her own compassionate appointment which was rejected on 11.12.2000 on the ground that she was illiterate. She never questioned the rejection of her candidature at any stage. It is submitted that the Petitioner attained majority and then applied for compassionate appointment which has wrongly been rejected.

4. Learned Counsel for the State submits from the death certificate at Annexure-1 that the father of the Petitioner was deceased on 27.5.1992.

5. Whether the date of death be 1992 or 1998 the Petitioner was clearly a minor ineligible to apply. The time limit for submission of an application was under the policy was five years from the date of death. Therefore even, if the date of death is reckoned as 1998, the Petitioner was required to apply by the year 2003. It is his own case that he as applied in the year 2007. The mater of the Petitioner had applied earlier which came to be rejected and achieved finality. The application was nearly nine years after the death of the deceased cannot be lost sight of. The Petitioner had the wherewithal to survive all these years is itself demonstrative of the absence of any need for compassionate appointment.

6. The impugned order states that the application of the Petitioner having been submitted beyond he period of five years was barred by law.

7. An appointment of compassionate ground, has been held to be an exception to be done strictly in accordance with policy guidelines regulating the same. The application was submitted by the mother

8. In Haryana State Electricity Board and another Vs. Hakim Singh, the Son of the deceased was four years old at the time of the death. His mother filed an application for compassionate appointment after he attained the age of majority. The Board took the stand that the application had not been submitted within time prescribed under the circulars from the date of death. The High Court held the time limit of three years was to be computed from the date of attaining majority. The Supreme Court at paragraph 12 setting aside the order of the High Court held as follows:

12. We are of the view that the High Court has erred in over stretching the scope of the compassionate relief provided by the Board in the circulars as above. It appears that High Court would have treated the provision as a lien created by the Board for a dependent of the deceased employee. If the family members of the deceased employee can manage for fourteen years after his death one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance. The object of the provisions should not be forgotten that it is to give succour to the family to tide over the sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member.

9. The application stands dismissed.