

Rita Devi Vs. The National Institute of Technology Through It Board of Governors Jamshedpur

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Court : Jharkhand

Decided On : Dec-09-2016

Appellant : Rita Devi

Respondent : The National Institute of Technology Through It Board of Governors Jamshedpur

Advocate for Pet/Ap. : Mr. Samir Kumar Lall

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S.) No. 4760 of 2012 Rita Devi, wife of late Shailesh Kumar Rai, resident of Quarter No. J-6/4, Road No. 11, Adityapur Housing Colony, Post Office Adityapur, Police Station R.I.T. (Adityapur), District Seraikella- Kharsawan, Jharkhand. Petitioner. - VERSUS- 1. The National Institute of Technology through its Board of Governors, Adityapur, Jamshedpur, Post Office R.I.T. (Adityapur), P.S. R.I.T. (Adityapur), District Seraikella-Kharsawan, Jharkhand.

2. The Director, National Institute of Technology, Adityapur, Jamshedpur, Post Office R.I.T. (Adityapur), Police Station R.I.T. (Adityapur), District Seraikella-Kharsawan, Jharkhand.

3. The Registrar, National Institute of Technology, Adityapur, Jamshedpur, Post Office R.I.T. (Adityapur), Police Station R.I.T. (Adityapur), District Seraikella-Kharsawan, Jharkhand. . . . Respondents CORAM: HON'BLE MR. JUSTICE DR. S.N. PATHAK For the Petitioner : Mr. Samir Kumar Lall, Advocate For the Respondents : Mr. Manish Mishra, Advocate. 11/ 09.12.2016 Heard Mr. Samir Kumar Lall, learned counsel for the petitioner and Mr. Manish Mishra, learned Counsel appearing on behalf of the respondents.

2. In the instant writ petition petitioner prays for quashing the order No. NIT JSR-(Estt.)-2183/2012 dated 17.02.2012, whereby the respondents have been pleased to refuse to appoint the petitioner on compassionate ground on the plea that appointment/ recruitment for Group-C & Group-D post is completely banned in this Institute. The petitioner has also prayed for appointment on compassionate ground on any Group-C post.

3. The factual composition as has been delineated in the writ petition, is that the husband of the petitioner late Shailesh Kumar Rai was working on the post of Group C in the MCA Department of the Respondent Institute. He died in harness on 18.09.2011 leaving behind his wife, three minor children and old age parents. After the death of Order No. 11/ dated 9th December, 2016 2 W.P.(S.) No. 4760 of 2012 her husband, the petitioner filed an application on 07.10.2011, for payment of death-cum-retiral and also for appointment on compassionate ground.

4. Mr. Samir Kumar Lall, learned counsel appearing for the petitioner, submits that in her application dated 07.10.2011, the financial condition as also the liabilities left by her husband i.e. three minor children were explained. Learned counsel further submits that the respondent no. 2 paid death-cum-retiral benefits after deducting certain amount but the prayer for compassionate appointment has not been considered till date. Learned counsel further submits that though he made several representations but those were never considered.

5. To buttress his argument, he relies on Annexure-6 at page 29 of the writ petition, which is the order of Ministry of Communication & IT, Department of Posts, Government of India, which shows that, In addition to the above, cases where the wife of the deceased official has applied for compassionate appointment

for herself, she shall get 15 additional points as grace points. This will be in line with the general principle that the widow needs to be given preference for compassionate appointment.

6. Learned counsel for the petitioner also submits that one Kanak Kumari filed a petition before the Honble High Court regarding her compassionate appointment and the Honble High Court, taking into consideration various aspects and the scheme, has passed order for compassionate appointment of said Kanak Kumari.

7. By filing counter-affidavit, Mr. Manish Mishra, learned counsel appearing for the respondent-NIT, vehemently opposes the prayer of the petitioner for compassionate appointment and draws the attention of this Court to the earlier scheme at Annexure-E page 22 of the Counter- Affidavit, which reads as under:- The matter of granting compassionate appointment to wards of recently deceased employees was taken up. BOG agreed that since compassionate appointment was limited to 5% of the direct recruitment vacancies in the group and recruitment at C and D levels was frozen, no compassionate appointment matter could be considered now. However, Institute was directed to maintain a live roster of all such claims, have claims verified and considered in the next financial year should vacancies be advertised at that point of time. The duration for which a name could be rotated is maximum 3 years. Order No. 11/ dated 9th December, 2016 3 W.P.(S.) No. 4760 of 2012 8. Mr. Mishra further argues that in view of Annexure-E no appointments were made but on approaching this Honble Court and on the direction of the Honble Court regarding consideration of her case, that was complied with and the lady was given appointment but after passing of the order of this Honble Court, the NIT came with another scheme i.e. dated 26.09.2009 and the said decision was communicated by the Director, NIT, Jamshedpur, vide his letter dated 20.01.2010, which is annexed as Annexure-F to the counter affidavit. The said scheme reads as under:- There shall be a complete ban on any type of appointment including appointment on compassionate grounds on all Class-III and IV posts as per the guidelines of MHRD, Govt. of India till the due permission is received from the MHRD.

9. Mr. Mishra further submits that in view of the present scheme the Department has not made any appointment and the appointment, which was made earlier, was in view of the earlier scheme and as per the order and direction of the Honble High Court. Mr. Mishra submits that the Department has full compassion to the petitioner but in view of the present scheme, they are unable to make any appointment on compassionate ground 10. Having gone through the rival submissions of the parties, I am of the considered view that compassionate appointment is not a right given and it is in complete violation of Article 14 and 16 and any compassionate appointment has to be made in view of scheme of the Department. The scheme of the Department itself speaks that there cannot be any appointment rather, there is ban on any type of appointment including appointments on compassionate ground in Class- III and IV posts, so no direction can be given to the Department for making appointment on compassionate ground.

11. In view of the aforesaid orders, circulars, directions and in view of scheme as annexed by the learned counsel for the Respondents, no order can be passed for consideration of the case of the petitioner for compassionate appointment. The writ petition is, accordingly, dismissed. (Dr. S.N. Pathak, J.) kunal/-

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