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Court : Patna

Decided On : May-10-1999

Judge : M.Y. Eqbal, J.

Appeal No. : CWJC No. 3437 of 1997(R)

Appellant : Krishna Ram

Respondent : State of Bihar and ors.

Advocate for Def. : Mr. R.K. Marathia

Advocate for Pet/Ap. : Mr. A.K. Sinha

Disposition : Application Allowed

Prior history : M.Y. Eqbal, J. 1. In this writ application, the petitioner has prayed for quashing that part of the decision taken by the District Compassionate Committee dated 25-9-1997 by which the Committee has recommended to give appointment to the respondent No. 4 on compassionate ground ignoring the rightful claim of the petitioner. A further prayer has been made for issuance of appropriate direction to the respondents to appoint the petitioner on compassionate ground on the ground that his father died

Judgement :

M.Y. Eqbal, J.

1. In this writ application, the petitioner has prayed for quashing that part of the decision taken by the District Compassionate Committee dated 25-9-1997 by which the Committee has recommended to give appointment to the respondent No. 4 on compassionate ground ignoring the rightful claim of the petitioner. A further prayer has been made for issuance of appropriate direction to the respondents to appoint the petitioner on compassionate ground on the ground that his father died in harness.

2. The petitioner's case, inter alia, is that his father while working as Chowkidar in Nagan Untari P.S. died on 11-4-1994. The petitioner accordingly applied on 10-5-1994 before the respondent No. 2, Deputy Commissioner, Garhwa for giving him appointment on compassionate ground and for that petitioner submitted all relevant documents with regard to his qualification including an affidavit stating that he is the only son of his deceased father. It is stated that the respondent No. 4 also submitted a representation claiming himself to be the son of the second wife of the deceased No. 2 sought legal opinion from the office of Advocate General, Bihar, Patna with regard to giving compassionate appointment to the rightful person and accordingly an opinion was given from the office of Advocate-General, Bihar, Patna stating that the petitioner being the son of the first wife is entitled to get appointment on compassionate ground. It is further stated that the Joint Secretary (Police Department) also written a letter dated 19-3-1996 to respondent No. 2 stating therein that the case of the petitioner can be considered for giving appointment on compassionate ground. The petitioner's further case is that a will was executed by the deceased father of the petitioner in which it was stated that the petitioner is the sole successor of all the properties as well as other things belonging to the deceased employee. The petitioner filed several representations to all the respondents including the Deputy Commissioner and the Commissioner, Palamau Division at Daltonganj. However, the respondents-authorities ignoring the rightful claim of the petitioner had taken a decision in the District Compassionate Committee on 25-9-1997 and held that the petitioner is entitled to get all the monetary benefits accrued on account of death of the deceased employee, whereas the respondent No, 4 is entitled for appointment 011 compassionate ground and accordingly the Committee has recommended for appointment of the respondent No. 4 on compassionate ground, A copy of the impugned decision of

the Committee has been annexed as Annexure-7 to the writ application.

3. Counter-affidavits have been filed on behalf of respondents. In the counter-affidavit filed by the respondent No. 3, it is stated that the illegitimate son is also entitled for appointment on compassionate ground and the committee has rightly decided that all the monetary benefits should be given to the petitioner and service on compassionate ground will be given to respondent No. 4.

4. I have heard Mr. A.K. Sinha, learned Counsel for the petitioner and Mr. R.K. Marathia, learned Counsel for the respondents.

5. The whole object of granting compassionate employment is to enable the family to tide over the sudden crisis. Mere death of an employee in harness does not entitled his family to such source of livelihood. The Government or the authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis that a job is to be afforded to the eligible member of the family.

6. In the instant case, it is not disputed that the petitioner is the only son of the first wife of the deceased employee. It is also not disputed that the respondent No. 4 is illegitimate son of the second wife of the deceased-employee. From perusal of the impugned decision of the Committee, it appears that only on the basis of a concession made by the respondent No. 4 that he will not claim any monetary benefits payable to the deceased, the Committee held that death-cum-retirement benefits should be paid to the petitioner being the son of first wife and employment should be given to the respondent No. 4 claiming to be the son of second wife. In my opinion, the Committee is not supposed to decide the question as to who will get retirement benefits and who will get employment on compassionate ground. As noticed above, the appointment on compassionate ground should be provided to an eligible person who is entitled to get such employment.

7. Mr. A.K. Sinha, during course of argument, submitted that the respondent No. 4 may be entitled to get share in the retiral benefits but in no case he will be entitled to get employment on compassionate ground.

8. Be that as it may, it is not for the Compassionate Committee to take a decision on the basis of concession made by the respondent No. 4 that he will not claim any monetary benefits accrued to the deceased employee on his death.

9. Having regard to the entire facts and circumstances of the case, this writ application is allowed and the impugned decision of the Compassionate Committee as contained in Annexure-7 is quashed, The matter is remitted back to the Committee to take a fresh decision in accordance with law and in the light of the direction and observation made hereinabove.

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