Krishna Kumar Vs. Chief General Manager, State Bank of India and anr.

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SooperKanoon Citation : sooperkanoon.com/474269

Court : Allahabad

Decided On : Jan-12-2005

Reported in : 2005(1)ESC608; [2005(104)FLR980]; (2005)2UPLBEC1603

Judge : Vineet Saran, J.

Acts : Dying in Harness Rules, 1974

Appeal No. : C.M.W.P. No. 1188 of 2005

Appellant : Krishna Kumar

Respondent : Chief General Manager, State Bank of India and anr.

Advocate for Def. : Vipin Sinha, Adv.

Advocate for Pet/Ap. : R.S. Chaudhary, Adv.

Disposition : Petition dismissed

Judgement :

Vineet Saran, J.

1. The father of the petitioner was a Class IV employee of the respondent-State Bank of India. He died in harness on 28.3.2000. Immediately thereafter the petitioner filed an application for appointment on compassionate grounds which was rejected by the competent authority stating that the financial condition of the

family cannot be termed as penurious in view of the terminal benefits, investments, savings, family pension, etc. which have been paid and were being received by the family of the deceased employee. The said order was challenged by the petitioner in Writ Petition No. 9774 of 2002 which was allowed by this Court with the direction that the respondent-Bank shall re-consider the application of the petitioner for appointment on compassionate grounds. The order of the learned Single Judge was challenged by the Bank in Special Appeal No. (833) of 2004. After considering various decisions of the Apex Court and also the scheme of the bank for appointment on compassionate grounds, the special appeal was disposed of with the modification that 'while reconsidering the application submitted by the petitioner for appointment on compassionate ground the authorities shall also take into consideration the income of the widow received from the family pension and interest from terminal benefits while considering the financial status of the family.'

2. By means of the impugned order dated 4.12.2004 passed by the Chief General Manager of the respondent-Bank, the request of the petitioner for compassionate appointment has been declined. Challenging the said order the petitioner has filed this writ petition with a further prayer for a direction to the respondents to appoint the petitioner under the Dying in Harness Rules, 1974.

3. At the very outset it may be stated that the Dying in Harness Rules are not applicable to the petitioner. However, what is to be considered by this Court is as to whether refusal of compassionate appointment was proper in terms of the scheme for appointment on compassionate grounds as framed by the Bank. The said scheme is not under challenge before this Court.

4. I have heard learned Counsel for the petitioner as well as Sri Vipin Sinha, learned Counsel appearing for the respondent-Bank and have perused the record. In my view, the impugned order does not suffer from any infirmity so as to call for interference by this Court.

5. While passing the impugned order the authority concerned has taken into consideration the financial status of the family of the deceased employee which, according to the petitioner, comprises of the widow and four married sons and

their children. The competent authority assessed the total income of the family including interest out of the terminal benefits (as had been directed by the Division Bench in the special appeal) to be Rs. 9,656/-, out of which Rs. 4,100/-, is said to be the income of the three sons of the deceased who are married and living separately. Thus, after excluding the income of the families of the three married sons, the income of the remaining members of the family of the deceased employee comes to Rs. 5,556/- per month, which according to the petitioner is insufficient for their maintenance looking to the number of the family members which remain dependent on such income. It is admitted to the petitioner that three other brothers of his are employed and have independent source of their income and livelihood and it is the petitioner alone who is not employed and is dependent, although married and having children. In paragraph 10 of the writ petition it has been stated that the four sons of the deceased employee have 14 children which means that, according to the petitioner, total number of members of the family of the deceased employee were 23 which includes the widow, four sons, their wives and 14 children. As such much emphasis has been laid on the number of the family members of the deceased employee on which basis it is claimed that the amount which the family of the deceased employee received from the Bank as family pension and other terminal benefits would be insufficient for their maintenance. The said submission of the petitioner does not have much force. Admittedly, at least three sons of the deceased employee are earning and have independent source of livelihood. Thus they, as well as their independent family units, could not be treated as dependent on the deceased employee. Now it is the widow and the petitioner (son of the deceased) who remain. Although it is to be presumed that since the petitioner was married and had children, he ought to be independent and have his own source of income, still even if he is presumed to be dependent on such income then too the amount of Rs. 5,556/- per month which they would be getting as family pension and interest on terminal benefits should be sufficient for them [i.e. the widow and the unemployed son (petitioner)] to be maintained. I say so because such income has to be considered in the light of the status of the family. The deceased employee was working on a Class IV post. The admitted income of the other three brothers who are maintaining their separate units of the family independently are earning Rs. 1,500/-, Rs. 1,400/- and Rs.

1,200/-per month individually. In such view of the matter, since the other three brothers are to maintain their families with the income as has been stated above, then the widow and the family of the petitioner can very well be maintained with the income of Rs. 5,556/- which is being received by them. Merely because an individual member of the family is unemployed when others are gainfully employed would not entitle such member for compassionate appointment. While considering the claim for appointment on compassion ground, the status and income of the entire family has to be considered and not the income of each individual member of the family.

6. Appointment on compassionate grounds is not to be made an alternate source of recruitment or appointment. It is only to tide away the immediate financial distress which the family of the deceased employee faces because of the sudden death of the sole bread earner of the family. In the present case, the petitioner has been refused appointment on compassionate ground after taking all the facts into consideration, including the income of those brothers who are residing separately and also the remaining income of the family, which comes to Rs. 5,556/-, on which only the widow and the petitioner are dependent, and as has already been observed above, considering the status of the family the said amount would be sufficient for their maintenance. Thus I find no good ground for interference with the impugned order and for issuing a direction to the respondent-Bank to give out of turn appointment on compassionate ground to the petitioner.

7. This writ petition lacks merit and is, accordingly, dismissed. No order as to costs.