

Vijay Kumar Vs. Zonal Manager (N), Food Corporation of India Limited and ors.

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SooperKanoon Citation : sooperkanoon.com/488494

Court : Allahabad

Decided On : Sep-16-2003

Reported in : (2004)1UPLBEC190

Judge : Rakesh Tiwari, J.

Acts : Food Corporation of India Staff Regulation, 1971 - Regulation 22(3) and 22(4); Food Corporation Act, 1964

Appeal No. : Civil Misc. Writ Petition No. 46904 of 2000

Appellant : Vijay Kumar

Respondent : Zonal Manager (N), Food Corporation of India Limited and ors.

Advocate for Def. : N.P. Singh, Adv.

Advocate for Pet/Ap. : A.B. Singh, Adv.

Disposition : Petition dismissed

Judgement :

Rakesh Tiwari, J.

1. Heard Counsel for the parties and perused the record.

2. This petition has been filed challenging the validity and correctness of the impugned order dated 1.6.2000 passed by Senior Regional Manager, Food Corporation of India Limited, Regional Office, Lucknow, the respondent No. 2.

3. The facts of the case, are that the father of the petitioner Darab Singh was in employment of respondent as Dusting Operator. He moved an application-dated 24.11.1997, for Medical check-up, as he was not able to work. The application was forwarded by respondent No. 4 to the Chief Medical Superintendent, District Hospital, Agra after complete Medical check-up he was declared medically unfit for service on 29.11.1997. A representation was thereafter made by Darab Singh for giving him premature retirement on Health/Medical grounds. The application was forwarded by District Manager, Food Corporation of India Limited, Agra, respondent No. 3 on 22.12.1997 for giving premature retirement to Darab Singh, w.e.f, 29.11.1997. Another representation was also moved on 12.6.1998 before the Regional Manager with request to retire the applicant Darab Singh on medical grounds and further to consider the appointment of his son the petitioner, on compassionate grounds. The order-dated 18.8.1998 was passed by respondent No. 3, retiring the father of the petitioner on medical ground under Regulation 22 (3 and 4) of Regulation, 1971.

4. In so far as the claim of the petitioner on compassionate ground was concerned, it was forwarded by the Assistant Manager alongwith documents to the District Manager, Food Corporation of India, Agra on 1.9.1998. Reminder-dated 5.11.1998 and 1.5.2000 were submitted and a representation was also made before respondent No: 1 on 3.2.2000 by the father of the petitioner.

5. The representation of the petitioner for giving appointment to his son on compassionate ground was rejected by the impugned order dated 1.6.2000 on the ground that his father has retired on medical ground on attaining the age of 56 years and 11 months and his son was not eligible for grant of compassionate appointment. The grant of compassionate appointment can be considered only if the employee applied for retirement before completion of 55 years of age. The letter-dated 1.6.2000 is as under :--

'To,

The Sr. Regional Manager. Food Corporation of India,

Regional Office, U.P., Lucknow.

Subject :-- Appointment on compassionate grounds in r/o Sri Vijay Kumar S/o Shri Darab Singh, Ex-D/o retired on 29.11.1997, on medical grounds.

Sir,

Please, refer to your office Letter No. Estt./1(12)/501/98/Agra/225, dated 1.5.2000 on the subjected cited above. In this regard, it is to inform you that the official retired on medical grounds, at the age of 56 years and 11 months and hence, his son Shri Vijay Kumar is not eligible for compassionate appointment in the FCI. The compassionate appointment in case of voluntary retirement on medical grounds is allowed only if the employee sought retirement before completion of 55 years of age. The official may be informed accordingly.

Yours Faithfully.

S/d. S.K. Binda,

Assistant Manager (Ex)

For Deputy Manager(E.I.).'

6. It is contended by the Counsel for the petitioner that one Sri Rampreet had retired on medical ground and his son Sri Bechan Yadav was given appointment as handling labour by the respondent on compassionate ground. The offer of appointment dated 10.1.2000 to Bechan Yadav has been filed as Annexure-9 to the writ petition.

7. The Standing Counsel submits in rebuttal that the petitioner's father sought retirement after attaining the age of 56 years and 11 months at the time when he was at the verge of the retirement. He further submitted that the retirement of an employee who was retired on medical ground is discretionary matter and is subject to availability of vacancies of posts as envisaged in Food Corporation of India, Staff Regulation 1971, framed under the Food Corporation Act, 1964. It is stated

that Bechan Yadav is handling labour in the department and such cases are dealt with separately on model standing instructions as per National Industrial Tribunal (NITA) and not by the said Staff Regulations, 1971.

8. The appointment on compassionate ground cannot be claimed as a matter of right. It is purely at discretion of the Competent Authority taking into account the circumstances and conditions of the family of the retired person. The rejection of the claim of the petitioner does not suffer from any illegality or infirmity. The recommendation of the authorities have no sanctity of law and the Competent Authority is not bound by any recommendation. The claim of the petitioner for appointment on compassionate ground is devoid of merits and is not based on any legal rights. There is no breach of statutory provisions in this regard has been pointed out by the Counsel for the petitioner.

9. The petitioner had sought appointment for his son one month prior to his retirement. He had placed his innings and the discretion of the authority cannot be converted into a legal right for appointment of his son for another full innings. The authorities had their discretion in the matter which they have used judiciously while rejecting the claim of the petitioner for appointment of his son.

10. For the aforesaid reasons, the writ petition fails and is dismissed. No order as to costs.