

Pradeep Kumar Vs. Mineral Area Development Authority and ors.

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Court : Jharkhand

Decided On : Apr-20-2005

Reported in : [2006(4)JCR104(Jhr)]

Judge : N.N. Tiwari, J.

Appeal No. : WP (S) No. 4225 of 2004

Appellant : Pradeep Kumar

Respondent : Mineral Area Development Authority and ors.

Advocate for Def. : Aparesh Kumar Singh, Adv.

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

Disposition : Application allowed

Judgement :

ORDER

N.N. Tiwari, J.

1. In this writ application the petitioner has prayed for quashing the letter No. 149 dated 24.6.2004 issued by the Mineral Area Development Authority, Dhanbad whereby the petitioner's application for compassionate appointment has been rejected on the ground that he has crossed the age limit of 35 years.

2. The petitioner's case is that his mother died in harness on 31.10.2001. Thereafter, the petitioner made an application for his compassionate appointment on 6.12.2001. The petitioner's date of birth is 5.4.1967 and as such on the date of application the petitioner's age was 31 years 8 months and one day.

3. According to the petitioner after scrutiny of the said application the compassionate Appointment Committee recommended the name of the petitioner for his compassionate appointment. The competent authority also approved the same and the news item was also published in the local daily in its edition dated 25.4.2003 but in spite of the same letter of appointment was not issued to the petitioner, he was subsequently served with the impugned order. According to the petitioner he was within the required age limit on the date of the application and his candidature cannot be rejected on the ground of his being over age on the date of consideration of his appointment. Learned Counsel relied on decision of this Court, in *Most. Meer Singh v. State of Jharkhand and Ors.* reported in 2002 (3) JCR 529, wherein has been held that the claim of the compassionate appointment cannot be refused on the ground of being over age at the time of consideration of the said application when the petitioner applied for the same well within time.

4. A counter affidavit has been filed denying the claim and supporting the impugned order (Annexure-8). It has been stated that the petitioner is not entitled to compassionate appointment as he became over age at the time when his application was placed before the committee and the same was considered and rejected. The only ground for denial of the Compassionate appointment to the petitioner is his crossing the maximum age limit of 35 years on the date of consideration of the application. Mr. R.S. Mazumdar the learned. counsel appearing for the petitioner submitted that this case is squarely covered by the decision of this Court (*supra*) and also the decision of case of *Babujan Ansari v. State of Jharkhand and Ors.* reported in 2003 (4) JCR 676.

5. Mr. Aparsh Kumar Singh, learned Counsel appearing on behalf of the respondents though opposed the petitioner's claim and supported the impugned order yet he could not be able to distinguish this case from those cases in which the said ratio has been laid down by this Court.

6. In view of the above, the point involved in this case is no longer res integra and the same is squarely covered by the said decision. The writ application is thus allowed. The impugned order dated 24.6.2004 as contained in Annexure-8 is quashed.

7. It is made clear that the petitioner's compassionate appointment shall not be denied on the ground of his being over age on the date of consideration when he was well within age on the date of the application and is otherwise entitled for the same. Since there has already been delay in the appointment of the petitioner, the respondents shall take final decision and issue appropriate order within a period of six weeks from the date of receipt/production of a copy of this order.

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