

Dharampal Vs. General Manager (Adm.) Delhi Electric Supply Undertaking and anr.

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Court : Delhi

Decided On : May-23-2000

Reported in : 2000IVAD(Delhi)801

Judge : A.K. Sikri, J.

Appeal No. : CWP. No. 85 of 1995

Appellant : Dharampal

Respondent : General Manager (Adm.) Delhi Electric Supply Undertaking and anr.

Advocate for Def. : Ms. Avnish Ahlawat, Adv.

Advocate for Pet/Ap. : Mr. Bhaskar Bhardwaj Adv

Judgement :

ORDER

A.K. Sikri, J.

1. The father of the petitioner was working with the respondents who died on 17.12.1987 while in employment. After his death petitioner's mother submitted an application dated 25.02.1988 to the respondents requesting that petitioner be

given employment by respondents on compassionate grounds. Some information was obtained from the petitioner by the respondents regarding details of agricultural land and income of elder brother. Thereafter, Screening Committee of the respondents considered the request but rejected the same on 10.02.1993. Petitioner, thereafter, made requests to higher authorities but as these representations do not yield any results, present petition was filed in December, 1994 seeking quashing of impugned order dated 2.12.1993 by which petitioner was informed that his request was rejected and mandamus is sought directing the respondents to give him job.

Respondents have the scheme of appointment on compassionate basis and as per the respondents, request of the petitioner was considered as per the provisions of said policy. At the relevant time only those dependants of the deceased employed could be granted job whose family income (including pension) does not exceed Rs.1100/- PM. In the impugned order dated 2.12.1993, it was stated that since the family income, including family pension, was more than Rs.1100/- PM, his case was rejected.

2. It is an admitted case between the parties that as per record, an amount of Rs. 955/- was being paid as family pension, Rs.125/- PM was the income of the brother of the petitioner, Rs. 42/- PM from agricultural land and thus the family was earning about Rs.1122/- PM. The income of the brother of the petitioner was accepted at Rs.125/- PM as per the details given by the petitioner himself although it is stated in the counter-affidavit that it is unbelievable that petitioner's brother was earning only Rs.125/- PM.

3. Counsel for the petitioner could not dispute the aforesaid income of the family. However, it was sought to be argued that the income of his brother should not be included while computing the total income of the family as it was not regular income. This cannot be believed when the figures to this effect were supplied by the petitioner himself.

4. Law on appointment on compassionate basis is now crystalised by the Apex Court through various judgments. In Life Insurance Corporation of India Vs . Asha Ramchandra Ambekar & Anr., : (1994)11LLJ173SC it is held that no person has

got right to be appointed on compassionate basis and that employment on compassionate ground has to be within the four corners of the scheme applicable and not on any other basis. As the case of the petitioner is not covered by the Scheme, his request was rightly rejected.

5. Further in *Umesh Kumar Nagpal Vs . State of Haryana and Others*, : [1994]3SCR893 Hon'ble the Supreme Court has held that object of compassionate appointment is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment. It is emphasised in the said judgment that as a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exceptions is in favor of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. In the same judgment Hon'ble the Supreme Court has further held that mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public 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 offered to the eligible member of the family. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favor of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of

the family engendered by the erstwhile employment which are suddenly upturned.

6. In this case father of the petitioner died in December,1987 i.e. more than 13 years ago. It cannot be said that even today there is any such sudden crisis due to the death of petitioner's father which needs to be tide over. This writ petition, accordingly, fails and is, therefore, dismissed.

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