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**Bhagwan Dai Vs. Ministry for Development and Education**

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**SooperKanoon Citation** : sooperkanoon.com/702911

**Court** : Delhi

**Decided On :** Sep-01-1997

**Reported in** : 1997(43)DRJ304

**Judge** : Devinder Gupta and; K. Ramamoorthy, JJ.

**Acts** : Constitution of India - Article 226

**Appeal No.** : Civil Writ Appeal No. 2834 of 1994

**Appellant** : Bhagwan Dai

**Respondent** : Ministry for Development and Education

**Advocate for Pet/Ap.** : H.D. Birdi and; S.K. Shukla, Advs

**Judgement** :

**Devinder Gupta, J.**

(1) Petitioner No.1 is the widow and petitioner No.2 is the son of late Radhey Shyam, who was employed as a Class Iv Chowkidar in D.S. Arya Senior Secondary School on 28.1.1933 and died on 24.12.1973 and, thus, had completed 30 years of service. A direction was sought in this petition against respondent No.3 School to appoint petitioner No.2 in place of Radhey Shyam on compassionate grounds. Another direction, which was sought, was for payment of the pensionary benefits.

(2) There is no dispute that the pensionary benefits, which were due and payable, have since been paid to petitioner No.1. The only claim, which survived thereafter was as regards appointment of petitioner No.2 on compassionate ground. During pendency of the writ petition on 2.11.1995 a direction was made to the respondent to consider the question of giving appointment to petitioner No.2 on compassionate ground, may not be as a Chowkidar but in any other Class Iv post. Pursuant to the said direction, the Management of the respondent-School examined the case and took a decision in its meeting held on 29.2.1996. In nutshell the minutes of the meeting state that the claim of petitioner No.2 for appointment on compassionate grounds was duly examined by the School but petitioner No.2 was not found suitable for appointment. Number of reasons have been stated in the minutes for not giving appointment. Before us, the petitioners have now tried to challenge the decision of the Managing Committee on a number of grounds. We are not inclined to interfere with the decision of the Managing Committee of the School and thereby issue directions to appoint petitioner No.2 on compassionate grounds on Class Iv post. Appointment on compassionate ground cannot be sought as of right. The only right which petitioner No.2 can be said to be having would be a right of consideration. When his case for appointment on compassionate grounds was not considered by the respondents a direction was issued to the respondents to consider the same. The claim was duly examined by the Managing Committee, which in its meeting has now taken a decision, for the reasons stated in the minutes, that petitioner No.2 cannot be given appointment. It has been recorded that petitioner No.2 was not dependent upon the deceased. During life time of the deceased, petitioner No.2 was self-employed driving a three-wheeler scooter and for that reason petitioner No.1 in her affidavit had not included name of petitioner No.2 as one of the dependents of the deceased.

(3) Moreover, petitioner No.2 has also been found to be not suitable for any job in the School. Suitability for being employed has to be considered by the Management and we cannot substitute our own decision for that of the Managing Committee. There being no irrationality in the decision taken by the respondent management, who has already taken a fair view of the matter, it is not a case for interference under Article 226 of the Constitution. Dismi

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