

Smt. Sushila Devi Vs. Alwar Co-operative Land Development Bank Ltd.

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Court : Rajasthan

Decided On : Sep-29-2004

Reported in : [2005(105)FLR271]

Judge : S.K. Keshote, J.

Appellant : Smt. Sushila Devi

Respondent : Alwar Co-operative Land Development Bank Ltd.

Judgement :

S.K. Keshote, J.

1. Heard learned Counsel for the parties and perused the entire record of the writ petition.

The petitioners in the writ petition prayed for grant of following relief,

It is, therefore, prayed that this Hon'ble Court may kindly be pleased to call for the entire record and the writ petition may kindly be allowed and;

(i) issue a writ, order or direction in the nature thereof thereby direction be issued to the respondent to give suitable appointment to the petitioner on compassionate grounds and also direct to make all due payments to late Shri Shyam Babu Sain;

(ii) any other order or direction which the Hon'ble Court deems fit and proper may kindly be passed in favour petitioners.

2. The facts of the case are that the husband of petitioner No. 1 died in harness on 25th of January, 2001. He was Class employee working with the respondent No. 1, Alwar Co-operative Land Development Bank Limited (for short, the respondent-Bank'). He behind him following heirs:

1. Sushila (the widow)
2. Lalit Kumar (son)
3. Chetan Kumar (son)
4. Kumari Geetanjai (daughter)
5. Manish Kumar (son).

3. After death of her husband, the petitioner No. 1 sent due information to the respondent-Bank and requested therein either to appoint her or to appoint her son, the petitioner No. 2, on compassionate ground, as there is no one to look after the family affairs. She made numerous representations to the respondent-Bank but no veil and ultimately on 12th pf May, 2001 a letter was sent by the respondent-Bank informing that the application of the petitioners has been kept in waiting list at serial No. 2. The petitioner, No. 1 met with the District Collector and explained her grievance on 4th of September, 2001. The District Collector, Alwar sent a letter to the Bank in this regard but nothing has been done, thus she filed this writ petition.

4. Reply to the writ petition has been filed by die respondent-Bank. In the reply to the writ petition the preliminary objection has been raised. It is difficult to appreciate what to say to accept this approach of the respondent-Bank which may be State within the meaning of Article 12 of the Constitution of India to make an attempt to non suit the petitioner No. 1, a widow of deceased-employee, in the matter of compassionate appointment.

5. In the matter of compassionate appointment where the widow of deceased prays therefor, the same, in my opinion, may be accepted without any hesitation or

whisper whatsoever. Acceptance thereof and giving appointment to the widow of the deceased, in my opinion, is not only fair and reasonable but, strictly speaking, a genuine compassionate appointment.

6. I have my own reservations that the compassionate appointments being made, may not be hundred per cent genuine and justified.

7. Be that as it may be the another ground given for not accepting the prayer of the petitioner No. 1 for compassionate appointment has no factual and legal foundation of stand. Her application was considered and placed at serial No. 2 in the waiting list on the ground that one Chhote Lal Jogi also applied for compassionate appointment on the death of his father Makhan Lal Jogi who expired on 25.11.1991 in harness. This approach of the respondent-Bank to place the application, of the dependent of an employee, who died on 25.11.1991, at serial No. 1 in the waiting list, is wholly perverse, arbitrary and against the very object and purpose of the Rules providing for compassionate appointment. The application of Chhote Lal Jogi claiming compassionate appointment on the death of his father way back on 25.11.1991 otherwise also cannot be given, any due consideration at this stage. Their Lordships of the Hon'ble Supreme Court time and again held that compassionate appointments are to be given immediately after the death of employee otherwise the very purpose and object thereof would be frustrated. Chhote Lal Jogi, the son of deceased employee Makhan Lal Jogi, who died on 25.11.1991, did not bother, care and concern to get the appointment for all these years and now at this stage giving preferential treatment to him on the claim of a widow, the petitioner No. 1, who applied for compassionate appointment immediately after the death of her husband, is not justified. That apart, where two applications for compassionate appointment are pending, in my considered opinion, the appointing authority ought to have considered both of them and to record his satisfaction to whom the compassionate appointment is to be given. A comparative assessment of their need of compassionate appointment is to be made. In the facts of this case where a widow of deceased employee, who died on 25.1.2001, made application immediately after the death of her husband, is to be given preferential treatment over a son of deceased employee who died on 25.11.1991. I am of the opinion that the claim of Chotte Lal Jogi does not stand to

any legality or propriety in comparison to the petitioner No. 1, the widow of the deceased.

8. Be that as it may be, this aspect of the matter has been considered during the pendency of the writ petition and the respondent-Bank, under the order dated 27th of September, 2004 has given the appointment to the petitioner No. 1 on compassionate ground. However, this appointment is made from prospective date.

9. The petitioner No. 1 submitted her application for compassionate appointment immediately after the death of her husband. The learned Counsel for the petitioners submits that in number of case this Court has given compassionate appointment to the dependents of the deceased employees of the Bank or other Boards/Corporations/Institutions, with all consequential benefits follows from the date of filing of the applications. In the facts of this case, I do not find any justification in the contention of the learned Counsel for the petitioners to give the appointment to the petitioner No. 1 on compassionate ground from the date of the application with all consequential benefits. However, in my opinion, if the appointment to this lady is not given from the date of filing of application, she can be given notional benefits for this period. Her case for notional benefits stands on strong legal footings as well as on equities.

10. As a result of the aforesaid discussion, the writ petition is disposed of in the terms that the appointment of the petitioner No. 1 as Class-IV shall be effective from the date on which she made the application for the same. However, she will not be entitled for any monetary benefits for the intervening period but she will, be given notional benefits for that period. Her pay is to be fixed taking her services from the date of her application. Her services from the date of application shall also be countable towards the seniority and other purposes.

11. There shall be no order as to costs. Compliance of this order is to be made within a period of two months from today and report thereof is to be submitted to the Court immediately thereafter.