

Magan Singh Vs. the General Manager, Uco Bank and ors.

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Court : Rajasthan

Decided On : Apr-09-2010

Judge : A.M. Sapre and; Dinesh Maheshwari, JJ.

Appellant : Magan Singh

Respondent : The General Manager, Uco Bank and ors.

Disposition : Appeal dismissed

Judgement :

1. This intra-court appeal is directed against the order dated 08.02.2010 whereby the learned Single Judge of this Court has declined to entertain the writ petition (CWP No. 1102/2010) filed by the petitioner-appellant seeking directions against the respondent-Bank for consideration of his case for appointment on compassionate grounds. The learned Single Judge found the petitioner-appellant disentitled to any relief for compassionate appointment after about 15 years of the demise of the employee (father of the appellant).

2. Put in brief, the relevant facts and background aspects of the matter are that appellant's father Shri Man Mohan Singh expired on 13.11.1995 while serving as Daftari with the respondent-Bank at its K.E.M. Road Branch, Bikaner. According to the petitioner-appellant, his mother had expired way back on 12.10.1993 and, at the time of death of the father, he was a minor, being born on 19.07.1988; and hence, his grand father submitted a representation to the respondent- Bank on 30.11.1995 (Annex.2) for marking a lien over employment in his favour whereupon, by the order dated 16.07.1996 (Annex.3), the respondent-Bank did agree to offer him employment on attaining majority subject to fulfillment of the eligibility criteria as per the Bank's guidelines (Annex.3).

3. The case of the petitioner-appellant has been that he passed the Secondary School Examination in the year 2004 and the Senior Secondary Examination in the year 2006; and that the Bank, as per its decision, ought to have offered him a suitable job. According to the appellant, when nothing was heard from the Bank, he forwarded an application (Annex.5) with relevant documents for according him appointment and met the Senior Manager of the concerned Branch but then, the Senior Manager by the letter dated 20.03.2009 (Annex.6) raised the question as to why did he not approach the Bank earlier. The appellant referred to some further correspondence wherein the Bank raised the queries about his present status and employment, if any, and reply thereof by him and submitted that ultimately he got served a notice through the lawyer on 10.11.2009 (Annex.10) whereupon, again, certain information was sought if he had been in employment and then, his claim was rejected by the Zonal Manager under the communication dated 24.12.2009 (Annex.12) on the grounds that the lien was operative for four years from the demise of the employee as per the guidelines and when he remained minor even after lapse of such four years, his case could not be considered for appointment.

4. With reference to the facts aforesaid, the petitioner contended in the writ petition that the action of the respondents in denying him appointment on compassionate basis was arbitrary, unjustified and against all

cannons of justice. The learned Single Judge, as noticed, found no case for grant of relief after about 15 years of demise of the employee.

5. Assailing the order passed by the learned Single Judge, the learned Counsel for the petitioner-appellant has vehemently argued that when the grand father of the appellant had been vigilant to state the need of employment and the Bank also considered the facts and did mark a lien in favour of the appellant, there was no justification that the Bank omitted to accord him employment after attaining the age of majority; and that there had not been any such inordinate delay in the matter wherefor the appellant was to be denied adequate relief by the writ Court. The learned Counsel submitted that the case of the appellant was not liable to be rejected on the hypertechnical ground that even after lapse of four years from the date of marking lien, he remained minor according to the guidelines dated 21.09.1999, which were issued only after the death of the father of the appellant.

6. After having heard the learned Counsel for the appellant and after having examined the material placed on record with reference to the law applicable, we are unable to find any reason to consider interference in this appeal.

7. Compassionate appointment, an exception to the general rule of open recruitment, is intended to meet the immediate financial problems, if so faced by the bereaved family of the deceased employee; and the very object of providing compassionate appointment to a dependent of the deceased employee who dies in harness is to relieve the family of hardship and distress caused due to sudden demise of the bread-earner of the family. Such provisions for compassionate appointment, by their very nature, are in exception to the general procedure prescribed for making appointments; and are required to be applied while keeping in view the fact that by making such appointments, other eligible persons are deprived of their chance to seek employment. Compassionate appointment is not that of a vested right, rather it is a concession and not a right; and the employer cannot be held bound to provide for such concession whenever a member of the family of the deceased employee would ask for the same. The Hon'ble Supreme Court, in the case of Umesh Kumar Nagpal v. State of Haryana and Ors. : (1994) 4 SCC 138, observed as under:

The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

8. Though we have reservations on the proposition if any so-called lien over employment could as such be considered available in the name of compassionate appointment and we find even the suggestion that the grand father of the petitioner at all asked for any such lien by the representation dated 30.12.1995 (Annex.2) itself doubtful because the contents of such representation had essentially been of seeking payment of all the benefits payable in relation to the employee for the wife of the employee having pre-deceased him and the children being the minors but, even while leaving these aspects aside, we are clearly of opinion that such so-called lien, if any, cannot be considered to be perennial or perpetual in nature. Admittedly, the appellant, born on 19.07.1988, became major in the year 2006 but then, did not ask for such compassionate ground employment until the year 2009. It appears that the stale claim for compassionate appointment, without any traces of hardship and crisis of the family, was sought to be resurrected by sending an undated and unsigned representation (Annex.5) to which the Bank took an exception under its communication dated 20.03.2009 (Annex.6) while pointing out that it were an undated and unsigned letter that was received under the registered cover number 9243 wherein the facts were omitted to be mentioned that the appellant was drawing pension from the Bank; and it was not clear as to why did he not approach the Bank for a long period of time. The exchange of communications thereafter or service of notice in the month of November 2009 hardly inures to the benefit of the appellant.

9. All said and done, the fundamental reality of the matter remains that the employee (father of the appellant)

died way back in the year 1995; and the present one cannot be taken to be a case of family in distress needing immediate support to get over crisis so as to be accorded the concession of compassionate appointment.

10. We are clearly of opinion that in the given set of facts and circumstances, the learned Single Judge has not committed any error or illegality in rejecting the baseless writ petition filed in the year 2010; and no case is made out for interference.

11. The appeal fails and is, therefore, dismissed, summarily.

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