

Constitutional Writ

Present: The Hon'ble Justice Pranab Kumar Chattopadhyay

AND

The Hon'ble Justice Pranab Kumar Deb

W.P.S.T. 154 of 2010.

JUDGMENT ON: 5.4.2010

POINTS:

COMPASSIONATE APPOINTMENT-Father of the petitioner expired only 10 months before the actual date of retirement-No bar under Rules to offer appointment to a member of the deceased family-Members of the enquiry committee specifically mentioned that the financial condition of the deceased family deplorable-Appointing authority strongly recommended for appointment of the petitioner on compassionate ground-Learned West Bengal Administrative Tribunal, whether justified in rejecting the claim of the petitioner for appointment on compassionate ground on account of the payment of the terminal benefits to the family of the deceased employee-Service Law

FACTS:

The deceased employee has one abnormal daughter apart from one other unmarried daughter. In the enquiry report, members of the enquiry committee specifically mentioned that the financial condition of the deceased family is actually deplorable.

This writ petition has been filed challenging the judgment and order passed by the learned West Bengal Administrative Tribunal whereby and where under the said learned Tribunal rejected the claim of the petitioner for appointment on compassionate ground on account of the payment of the terminal benefits to the family of the deceased employee and also considering the fact that the said employee died only 10 months before the normal date of retirement.

HELD:

It is well settled that the payment of terminal benefits cannot be always a valid ground for effusing appointment on compassionate ground. Para-3

The financial condition of the family of the deceased employee should be taken into consideration while deciding the claim with regard to the compassionate appointment. The Court finds that the appointing authority strongly recommended for appointment of the petitioner on compassionate ground. Para-6

It is true that the father of the petitioner expired only 10 months before the actual date of retirement but under the Rules, there is no bar to offer appointment to a member of the deceased family. Para-10

CASES CITED:

1) Govind Prakash Verma Vs. Life Insurance Corporation of India & Ors., (2005) 10 SCC 289.

2) Balbir Kaur & Anr. Vs. Steel Authority of India & Ors., (2000) 6 SCC 493

Mr. Rudranil De. ...For the Petitioner.

Dr. Sambuddha Chakraborty,
Ms. Amrita Sinha. ...For the State.

THE COURT:

1) This writ petition has been filed challenging the judgment and order dated 17th February, 2010 passed by the learned West Bengal Administrative Tribunal in case number O.A.1095 of 2006 whereby and whereunder the said learned Tribunal rejected the claim of the petitioner for appointment on compassionate ground.

2) The learned Tribunal rejected the aforesaid claim of the petitioner for appointment on compassionate ground on account of the payment of the terminal benefits to the family of the deceased employee and also considering the fact that the said employee died only 10 months before the normal date of retirement.

3) It is well settled that the payment of terminal benefits cannot be always a valid ground for effusing appointment on compassionate ground.

4) In the case of **Govind Prakash Verma Vs. Life Insurance Corporation of India & Ors.**, reported in (2005) 10 SCC 289, the

Hon'ble Supreme Court specifically held:

“ 6. The Scheme of compassionate appointment is over and above whatever is admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules.”

5) In the case of **Balbir Kaur & Anr. Vs. Steel Authority of India & Ors.**, reported in (2000) 6 SCC 493, the Hon'ble Supreme Court specifically observed:

“ 13. But in our view this Family Benefit Scheme cannot in any way be equated with the benefit of compassionate appointments. The sudden jerk in the family by reason of the death of the breadearner can only be absorbed by some lumpsum amount is made available with a compassionate appointment, the griefstricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the breadearner, but that would undoubtedly bring some solace to the situation.”

6) The financial condition of the family of the deceased employee should be taken into consideration while deciding the claim with regard to the compassionate appointment. In the present case, we find that the appointing authority strongly recommended for appointment of the petitioner on compassionate ground.

7) From the enquiry report also we find that the deceased employee has one abnormal daughter apart from one other unmarried daughter. In the enquiry report, members of the enquiry committee specifically mentioned that the financial condition of the deceased family is

actually deplorable. Relevant extracts from the enquiry report are set out hereunder:

“In considering the large size of the family including the liability of one abnormal daughter and another marriageable unmarried daughter vis-à-vis the income derived from the agricultural lands and through wages earned by the sons as casual agri-labourers it is felt that the financial condition of the deceased family is actually deplorable. The family pension and the amount of death benefits as will be admissible for payment to the family members will obviously be too inadequate to improve the family of the overall pecuniary condition of the family.

Considering all the foregoing facts and circumstances the committee is of the unanimous opinion that the present financial condition of the family of the deceased is really precarious and as such suggests the employment of the applicant suitably to save the family of the deceased Govt. employee from further misery.

The particulars furnished in part-I of the application form is verified with the service book and found correct.”

8) For the reasons mentioned hereinabove and specially going through the enquiry reports, we are satisfied that the financial condition of the family of the deceased employee is actually deplorable and the said family is in need of immediate financial assistance.

9) The learned Tribunal should have considered the aforesaid enquiry report while rejecting the claims of the petitioner for appointment on compassionate ground.

10) It is true that the father of the petitioner expired only 10 months

before the actual date of retirement but under the Rules, there is no bar to offer appointment to a member of the deceased family specially in the aforesaid circumstances.

11) The learned Tribunal also did not refer any Rule which prevents the authorities from entertaining the claim of the petitioner for appointment on compassionate ground due to the death of the employee only 10 months before the normal age of superannuation.

12) For the aforementioned reasons, the impugned judgment and order passed by the learned Tribunal cannot be sustained and the same is accordingly set aside.

13) Since a considerable time has already lapsed, we direct the respondent authorities particularly the respondent Nos.2 and 3 to issue appropriate order considering the claim for compassionate appointment of the petitioner to a suitable vacant post without any further delay but positively within a period of six weeks from the date of communication of this order upon taking note of our observations and findings.

14) This application thus stands allowed.

15) Urgent xerox certified copy of this order, if applied for, shall be given to the appearing parties, as early as possible.

(Pranab Kumar Chattopadhyay, J.)

(Pranab Kumar Deb, J.)
