

OA-632 of 2018

J U D G E M E N T

The instant application has been filed praying for following relief:-

- a) An order do issue thereby setting aside/quashing the Memo No. 210/R.O./Dated 17.02.2009 as well as Memo No. 370/RO dated 31.05.2018, whereby the respondent authorities have rejected the prayer of the applicant for employment on compassionate ground with immediate effect, and after setting aside direct the respondent authorities to forthwith give appointment to the applicant on compassionate ground in the vacant post of Group-D/C (Regular) under the establishment within a stipulated time period.
- b) An order do issue directing the concerned respondent authorities to forthwith give appointment to the applicant on compassionate ground in the vacant post of Group-D/C (Regular) under the establishment within a stipulated time period commensuration to his educational qualification.
- c) An order do issue directing the respondent authorities to dispose of the representations in accordance with law, after giving an opportunity of hearing, and to communicate their decision within a stipulated time period.
- d) An order do issue directing the respondent authorities to transmit all records pertaining to this instant case so that conscionable justice can be delivered.
- e) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant.

As per the applicant, his father died in harness on 25.12.1998. Thereafter his mother made a plain paper application on 12.03.1999 praying for providing compassionate appointment to her minor son (the applicant) after attaining the majority (Annexure-B). Subsequently, the applicant was asked to appear before the authority vide Memo dated 12.08.2008 (Annexure-C) and the applicant appeared before the said authority. However, as no decision was communicated to the applicant, he made a representation on 13.02.2008 (Annexure-D). Thereafter, the Inspector General of Police (Administration) vide

his Memo dated 17.02.2009, rejected the claim of the applicant on the ground that the applicant was not found physically fit (Annexure-E). Again the mother of the applicant made a representation before the authority on 12.03.2009 and 16.03.2009 (Annexure-F) praying for reconsideration of the claim of the applicant. The applicant was again asked to appear in the physical efficiency test and he was found duly qualified vide Memo dated 15.04.2010 (Annexure-G). However, all of a sudden, Respondent No. 3 vide Memo dated 31.03.2013, rejected the claim of the applicant on the ground that the applicant was minor at the time of death of his father and his candidature cannot be considered in the light of Labour Department Notification No. 251-Emp dated 03.12.2013 (Annexure-H). Being aggrieved with, he has filed this instant application.

As per the applicant, it is admitted fact that it has been submitted by the counsel for the applicant that at the time of death of his father, he was minor, however, the authorities failed to take into consideration that he has attained the age of majority at the time of rejection for his candidature..

The respondents have filed their reply wherein they have stated that the respondents has rightly rejected the case of the applicant as the date of birth of the applicant was 03.07.1998 i.e. he was a minor child of 10 years 5 months and 22 days at the time of death of his father. As per the scheme of the Government, department cannot wait for a long time for attaining majority of any of the candidate as the main purpose of granting compassionate appointment would be frustrated. Therefore, he has prayed for rejection of instant application.

The counsel for the applicant has filed his rejoinder reiterating the same submission as has submitted in the original application. The applicant has also referred the case of Syed Khadim Hussain Vs. State of Bihar & Ors. reported in 2006 (9) SCC 195 and has prayed for extension of the benefit of the said judgement.

We have heard the parties and perused the records. As per settled law as well as per decision of Hon'ble Apex Court in the case of Umesh Kumar Nagpal Vs. State of Haryana reported in 1994 (4) SCC 138, wherein it has been held that the compassionate appointment is not a matter of right. The whole object of granting compassionate appointment is to enable the family to overcome the sudden financial crisis caused due to the sudden demise of sole bread earner, however, mere death of a family member in harness does not entitled his family to such source of livelihood and such extension of compassionate appointment have necessarily to be made as per the Rules or by executive instructions issued by the government concerned. However, the said

cannot be granted after lapse of a reasonable period of time. In the instant case, admittedly the applicant was minor and as per the claim of the department concerned, compassionate appointment cannot be considered neither for a minor dependent nor the department can wait for long time for such appointment. If the family is facing acute financial crisis then any of the other family member could have approached for compassionate appointment.

In the instant case, since the deceased family can wait for more than eight years for compassionate appointment, that shows that they do not need of any immediate financial assistance from the department for compassionate appointment.

The case of Syed Khadim Hussain is also distinguishable as in the said case there is no bar to entertain the case of minor after a long time or after attaining the majority, however, in the scheme of the State Govt. for compassionate appointment, there is a specific bar to wait for minor.

In view of the above, we do not have any reasons to interfere with the decision of the respondents. Accordingly, OA is dismissed being devoid of merit.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA(SEN)
MEMBER (J)