

Court No. - 39

Case :- WRIT - A No. - 6149 of 2019

Petitioner :- Satya Prakash Dixit

Respondent :- Union Of India And 5 Others

Counsel for Petitioner :- Upendra Kumar Pandey

Counsel for Respondent :- A.S.G.I.,Sunil Kumar Singh

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Shri Upendra Kumar Pandey, learned counsel for the petitioner and Shri Sunil Kumar Singh, learned counsel for respondent nos. 1, 3 and 6.

2. Present petition is directed against the order of the Central Administrative Tribunal, Allahabad Bench, Allahabad dated 2.1.2019 passed in Original Application No. 330/01505 of 2016 (Satya Prakash Dixit vs Union of India & 4 Ors.). By that order, the learned Tribunal has dismissed the Original Application and confirmed the order dated 28.3.2016 passed by respondent no.3/Chief Post Master General of U.P. Circle Lucknow rejecting the petitioner's application for grant of compassionate appointment.

3. Having heard learned counsel for the parties and having perused the record, we find no good ground to offer interference in exercise of jurisdiction of judicial review. Undisputedly, the petitioner was adopted by the deceased Virendra Nath Dixit on 17.4.1985 when he was about eight months of age. Within few days, the said Virendra Nath Dixit died on 26.4.1985. The petitioner would have attained the age of majority in the year 2002. Four years thereafter, in the year 2006, the petitioner first filed an application for grant of

compassionate appointment being aged about 22 years. That application remained pending.

4. In such circumstances, the petitioner filed Original Application No. 1132 of 2009. It was disposed of by the Tribunal on 13.09.2010 with a direction upon the respondents to decide the petitioner's claim of compassionate appointment. When no order was passed, the petitioner filed a contempt application before the Tribunal. During pendency of the contempt proceedings, the order dated 28.3.2016 came to be passed. At that time, the petitioner was about 32 years of age. That order came to be challenged before the Tribunal. The Tribunal has rejected the Original Application primarily for reason of lapse of time. It has noted, 30 years had passed since the occurrence of death of Virendra Nath Dixit. It has also taken note of the financial condition of the petitioner's family. The Tribunal has also noted, it could not be established that the petitioner had filed an application for grant of compassionate appointment, in the year 2005.

5. In such facts, primarily, for reason of delay, the Original Application filed by the petitioner has been rejected. Though there may be some force in the submission being advanced by learned counsel for the petitioner that the delay was not caused solely by the petitioner and, in any case, the petitioner could not be blamed for the delay in consideration of the claim from the date of it being submitted to the date of its disposal and while it may remain to be tested if the rejection order was passed after following due procedure, nevertheless, it is wholly undisputed that as on date, almost 39 years have passed since the occurrence of death. Currently, the petitioner is more than 38 years of age. In the context of claim for grant of compassionate appointment, it may

not be forgotten that the appointment may not be granted by way of right to employment through dissent but by way of an exception to the rule of equal opportunity in employment. The right being claimed by the petitioner being an exception to the fundamental right guaranteed under Article 16 of the Constitution of India, interference claimed may be offered by Courts and Tribunals in deserving facts wherein not only the parties may have approached the Courts and Tribunal diligently but also facts may merit an exception to be made.

6. In the present case, no exceptional fact has been shown to exist. Primarily, all premature deaths are unfortunate and deserving of compassion for the family that have been left behind. At the same time, compassionate appointment is to be granted on a judicious application of mind to the issue whether an exception is required to be made to the rule of equality that must otherwise be preserved and ensured for the common good of all. Thirty-eight years is a very long time. Even twenty years was a very long time for the claim for grant of compassionate appointment to be first made.

7. In view of the above, we find no good ground exists to create an exception to the rule of equality as may allow us to issue any direction to provide for compassionate appointment to the petitioner.

8. At the same time, we are equally pained to note that it has taken sixteen years for the proceedings to reach finality at the stage of Tribunal. The application that was moved in the year 2005 ought to have been dealt with and decided within reasonable time that may not have exceeded one year. Keeping such claims pending for a long period of time on a false hope is neither consistent to the objects of good administration nor it may serve any useful purpose

to the parties. The citizen has spent 20 years of his productive life in the false hope of getting a public employment.

9. Therefore, learned counsel for the petitioner may communicate a copy of this order to the respondent no.3/Chief Post Master General of U.P. Circle Lucknow to issue necessary directions to all authorities dealing with such claims to decide them in a time bound manner as may serve the real purpose to grant compassionate appointment and may not lead to fruitless litigation as has happened in the present case.

10. Accordingly, the present petition is **dismissed**.

Order Date :- 12.12.2023
Prakhar

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)