

Court No. - 39

Case :- WRIT - A No. - 19460 of 2023

Petitioner :- Ved Prakash Singh

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Siddharth Khare, Sr. Advocate

Counsel for Respondent :- A.S.G.I., Akhilesh Kumar Mishra, Udai Chandani

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Pursuant to the last order, Shri Udai Chandani, learned counsel for the Union of India has produced the written instructions received by him. Copy of the same has been marked as 'X' and retained on record. In view of the short point involved, we proceed to dispose of the writ petition, at this stage itself, with the consent of the parties.

2. Heard Shri Ashok Khare, learned Senior Advocate, assisted by Shri Himanshu Singh, learned counsel for the petitioner and Shri Udai Chandani, learned counsel for the Union.

3. Present petition has been filed to challenge the order dated 21.07.2023 passed by the Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 592 of 2020 (Ved Prakash Singh Vs. Union of India and 2 others). By that order, the learned Tribunal has rejected the Original Application filed by the petitioner and thus confirmed the communications dated 01.08.2017 and 18.07.2018 issued by the respondents rejecting the claim for compassionate appointment made by the petitioner.

4. Undisputedly, the petitioner's father died in harness on

23.12.2012 leaving behind his wife and three children. The date of birth of the petitioner being 19.12.1995, he appears to have first made an application for grant of compassionate appointment on 03.07.2013. Thereafter, on 7.1.2015, the petitioner appeared before the Selection Committee to seek compassionate appointment. He was again called for interaction on 20.03.2017. Thereafter, he was visited with the communication dated 1.8.2017 informing him that his case had been closed.

5. In such circumstances, relying on Clause 8 of the Scheme for grant of compassionate appointment as also the own practice of the respondents whereunder the claim for compassionate appointment is considered at least on 5 occasions, it has been asserted that the petitioner's claim has been arbitrarily rejected. Referring to a decision of co-ordinate bench of this Court in **Union of India & Ors. Vs. Smt. Asha Mishra & Anr., Neutral Citation No.-2010:AHC:58259-DB** and the order of the Tribunal dated 7.3.2018 in **Original Application No. 330/00216/2018 (Jitendra Kumar Vs. Indian Audit and Accounts Department and another)**, it has been asserted, hostile discrimination has been practiced against the petitioner inasmuch as exactly similarly situated person Jitendra Kumar has been granted compassionate appointment in view of the order of the Tribunal dated 7.3.2018 wherein the Tribunal itself directed the respondent-authorities to reconsider his case following the decision of **Hari Ram Vs. Food Corporation of India and others, (2009) 3 UPLBEC 2212**.

6. On the other hand, Shri Chandani would submit, the petitioner has been granted sufficient opportunity. His claim has been considered twice. Since the petitioner scored lesser quality points on the accepted norms and parameters under the Scheme, his claim

was rejected.

7. Having heard learned counsel for the parties and having perused the record, in the first place, Clause 8 of the Scheme reads as below :

"8. TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT:

Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M No.14014/3/2011-Estt.(D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case."

8. Thus, no time limit is prescribed for consideration of claim for grant of compassionate appointment. Second, it does appear that it is a practice with the Union of India to grant multiple considerations to a claim for grant of compassionate appointment upon making its application.

9. Surely, such repeated consideration may be granted within reasonable time only. Thus, merely because no time limit may have been prescribed under the Scheme, no claimant may ever claim repeated consideration of his claim beyond reasonable time.

10. It is also not in dispute that in the case of **Jitendra Kumar (supra)**, the claim of that claimant was considered in 2011, 2012, 2015 and again 2016-17. While that claim had been thus rejected, Jitendra Kumar filed Original Application before the Tribunal, that came to be allowed for more (5th) consideration to be made.

11. Learned Senior Counsel for the petitioner would submit, it is

upon that 5th reconsideration of the claim of Jitendra Kumar that he was granted compassionate appointment.

12. Here, for no objective or visible reason, the claim of the petitioner was shut out after the second opportunity that too within a period of three years. Since the respondents had themselves considered similar cases, more than twice, it would have been proper on their part to treat the petitioner similarly.

13. For the reasons noted above, we find that the petitioner may have been dealt with harshly, for no fault. Once it was a policy of the Union to not prescribe any time limit to reject the claim and since it was the practice adopted by the Union to allow for repeated consideration of claim for grant of compassionate appointment on subsequent vacancy, we find no just reason existing to reject the petitioner's claim on the second opportunity, that too within a period of three years.

14. Since the petitioner litigated diligently i.e. he filed Original Application upon communication of closure of his case and that litigation remained pending before the Tribunal in the first leg of litigation itself, we find that the petitioner merits a third and final consideration of his claim.

15. Also, we find, no good ground has been given by the Tribunal to reject the claim of the petitioner. In the first place, the policy of the Union government and its practice have been completely ignored. In absence of any statutory law and further in absence of any special facts shown to exist as may have warranted departure from that stated policy and practice, the Tribunal has erred in rejecting the Original Application on the reason that the case of the petitioner is not similar to **Jitendra Kumar (supra)**. Though, the

Tribunal may be right in its reasoning that the said decision was not a decision in-rem, at the same time, in absence of any distinguishing law or fact, no unusual departure may have been made from that judicial review.

16. Insofar as the petitioner was entitled to a fresh consideration, the further reasoning of the Tribunal on the merits of the case has not arisen.

17. Accordingly, the order dated 21.07.2023 is set aside. Union of India is directed to deal with the petitioner's claim one more time i.e. upon next vacancy arises, as expeditiously as possible, preferably within a period of six months from today.

18. With the aforesaid observations/directions, the writ petition stands **disposed of** at the fresh stage.

Order Date :- 7.12.2023
SA

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