IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1164 of 2015

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Sri Abhishek Kumar Ranjan S/O Late Prem Nath Ram Resident of vill+P.O-Tarwara,P.S-G.B.Nagar,Tarwara,Distt.-Siwan-841506

.... Petitioner

Versus

1. The Union of India through the Secretary,Ministry of Labour and Employment,Govt.of India.
2. The Regional Provident Fund Commissioner Regional P.F.Office,R-Block, Patna.
3. Asst.Provident Fund Commissioner(Admi.)Regional Office,R.Block ,Patna

.... Respondents

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Appearance :
For the Petitioner/s : Mr. Dhananjay Kumar Tiwary, Adv.
For Respondent no.1 : Mr. Ravinder Kumar Sharma, CGC
For Respondents no.2 & 3: Mr. R.S.Pradhan, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 26-02-2015 Heard learned counsel for the parties.

Learned counsel for the petitioner while assailing the impugned order dated 12.9.2014 refusing appointment of the petitioner on compassionate ground has submitted that the respondents have not considered the liability of the deceased employee while rejecting the claim of appointment of the petitioner on compassionate ground on the basis that the total receipt of gratuity and provident fund to the family was about Rs.12 lacs. He has in this regard also submitted that the deceased has left behind two minor sons and two unmarried daughters and therefore, special consideration was to be made in the case of the petitioner by taking into account the liability vis-à-vis receipt of the amount of the deceased employee.

In the considered opinion of this Court the impugned order does take care of consideration of economic condition of the family. As a matter of fact when the Committee of the Employees' Provident Fund Organization in its resolution had opined that the family is not in penury and financial destitution, it had only gone to follow the law laid down by the Apex Court in the case of Umesh Kumar Nagpal v. State of Haryana & ors., reported in (1994)4 SCC 138. This principle in fact has also been further followed in the subsequent judgment of the Apex Court in the case of Kunti Devi vs. State Bank of India, reported in (2004)7 SCC 265, wherein this aspect was gone into further detail by the Apex Court by closely examining the aspect as to pros and cons of the sudden loss of the income due to the death of bread-earner of the family. The Apex Court in that case had approved the principle laid down by the State Bank of India of finding the total assets for the purposes of deemed income and also equating the same with the last salary drawn by the employee concerned before death. In fact while doing so it had again approved the principle laid down in the case of Umesh Kumar Nagpal (supra).

Thus, in the light of judicial pronouncement made on the subject this Court does not find that the consideration made by the

Employees' Provident Fund Organization in the impugned order suffers from any non-application of mind or omits to consider any relevant aspect, inasmuch as the same reads as follows:

> "To,
> Sri Abhishek Kumar Ranjan
> S/o late Prem Nath Ram
> Vill + PO- Tarwara
> PS- G.B.Nagar, Tarwara,
> Dist: Siwan
> Pin- 841506
> Sub: Compassionate appointment- regarding.
>
> He is hereby informed that proposal for his compassionate appointment placed before the screening committee in its meeting held on 25.3.2014, 1.4.2014 and 18.6.2014. The committee after considering the facts observed that Sh. Abhishek Kumar Ranjan S/o late Prem Nath Ram is married. <u>The family is residing in own house which was constructed by the deceased official. About Rs.12 lakh towards other emoluments i.e. Gratuity and SPF etc were drawn by family of deceased. The committee opined that the family is not in penury and financial destitution. Further as per DOPT circular no. 14014/02/2012 Estt(D) dated 30.5.2013 a married son cannot be considered for compassionate appointment as married son is not considered dependent on a government servant</u>. Hence his case was rejected by the Head Office, New Delhi on the aforesaid ground.
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> (This issues with the approval of RPFC-I, Bihar)

Sd/-

(P.K.Sinha)

Assistant P.F.,Commissioner(Adm)

Bihar, Patna”

(underlining for emphasis)

As would be noted that the finding with regard to income of the family of at least having 12 lacs rupees on the date of death by way of payment of the amount of gratuity and SPF is not disputed by the petitioners. Additionally Mr. Pradhan learned counsel for the Respondents has also informed this Court that there is a fixed amount of monthly pension payable to the widow. These facts will leave nothing for speculation that the family had/has still assured of that much amount, which the deceased employee was receiving by way of his home salary at the time of his death. Thus, such consideration by the Respondents in the impugned order would not require any further judicial review from this Court especially when this Court is not sitting in appeal over the views taken by the authorities of the Employees’ Provident Fund Organization.

The second aspect that the petitioner was not eligible for appointment as per the policy of the Employees’ Provident Fund Organization laying down that a married son cannot be considered for appointment as he is not considered as a dependant, would require no further comment save and except that if such policy of the Employees' Provident Fund Organization has been in vogue, the same could not have been changed only in the case of the petitioner.

Let it be noted that there is no challenge to such policy in this writ application and in fact the learned counsel for the petitioner admits that the petitioner at the time of filing of the application for appointment on compassionate ground was not married but subsequently before consideration could emerge and the impugned order was passed he had already been married. Thus, if the petitioner has not challenged the policy and incurred disqualification on account of his getting married, this Court cannot help him in any manner.

That being so, this application must fail and is hereby dismissed.

(Mihir Kumar Jha, J)

surendra/-

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