

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

W.P.(C).No.14955 of 2004 (E)

PETITIONER(S):-

ABDUL RASHEED, KANJIYIL THARAYIL,
PUTHENSANKETHAM, THEVALAKKARA VILLAGE, KARUNAGAPPALLY,
KOLLAM.

BY ADV. SRI.K.SUBASH CHANDRA BOSE.

RESPONDENT(S):-

THE GENERAL MANAGER,
INDIAN RARE EARTH LIMITED,
CHAVARA P.O., KOLLAM DISTRICT.

BY ADVS. SRI.E.K.NANDAKUMAR [SENIOR ADVOCATE]
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:-

- | | |
|--------|---|
| EXT.P1 | TRUE COPY OF THE NATIONAL TRADE CERTIFICATE. |
| EXT.P2 | TRUE COPY OF THE CERTIFICATE ISSUED BY THE RESPONDENT. |
| EXT.P3 | TRUE COPY OF THE CERTIFICATE ISSUED BY THE DOCTOR. |
| EXT.P4 | TRUE COPY OF THE DEATH CERTIFICATE. |
| EXT.P5 | TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER IN 1991. |
| EXT.P6 | TRUE COPY OF THE PETITION DATED 18.1.1998. |
| EXT.P7 | TRUE COPY OF THE REPRESENTATION DATED 15.12.2001. |
| EXT.P8 | TRUE COPY OF THE JUDGMENT IN O.P.NO.2711/2002 DATED 23.10.2003. |
| EXT.P9 | TRUE COPY OF THE ORDER ISSUED BY THE RESPONDENT DT.4.12.2003. |

RESPONDENT'S EXHIBITS:-

- | | |
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| EXT.R1(a) | TRUE COPY OF THE ORDER NO.903/692 DT.3.8.1978. |
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vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.14955 of 2004-E

Dated this the 13th day of October, 2015

JUDGMENT

The petitioner, by the above writ petition, claims compassionate appointment under the scheme for providing employment to the dependants of workers who are permanently disabled and medically unfit to continue in service. The petitioner contends that, the petitioner's father was seriously ill right from 20.09.1987 and the petitioner was entitled to an appointment under Order No.903/692 dated 03.08.1978.

2. The order relied on by the petitioner is produced by the respondent, at Exhibit R1(a). It indicates a dying-in-harness scheme having been introduced in the Company. There is also a provision for giving employment to dependants of an employee retired on medical grounds, which is extracted hereunder:

“7. In exceptional cases when a Department is satisfied that the condition of the family is indigent and in great distress, the benefit of compassionate appointment may be extended to the employment of

son/daughter/near relative of government servant retired on medical grounds under Rule 38 of the Central Civil Services (Pension Rules), 1972 or corresponding provisions in the Central Civil Regulations”.

3. The counter affidavit filed by the respondent indicates that the petitioner's father was an employee since 1974 and retired from the services on attaining the age of superannuation on 30.04.1989. The petitioner's application itself was received on 03.02.1991, after the death of his father in 1990. Hence, the petitioner's claim cannot be considered under the dying-in-harness scheme. The petitioner's claim for compassionate appointment, on the ground of debilitating illness of his father, could be considered only if the retirement was on medical grounds. In the present case, the retirement is shown to be on attaining the age of superannuation and not on medical grounds.

4. The discrimination pointed out by the petitioner on the ground of three others having been employed has been answered in paragraph 11 of the counter affidavit. One of the

said cases was that a driver, who, on account of the accident, while on duty, was crippled and disabled and his son was provided employment due to his discharge on account of his disability. The two other cases are in the circumstance of the said employees being declared mentally ill and thus terminated from service. No parallel can be drawn herein, since the petitioner's father retired normally on superannuation.

The writ petition, for all the above reasons, is found to be devoid of merit and the same is dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vku/-

[true copy]