

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.794 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 1164 of 2015**

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Sri Abhishek Kumar Ranjan, son of Late Prem Nath, Resident of Vill + P.O. - Tarwara, P.S. - G.B. Nagar, Tarwara, District – Siwan, 841506.

.... Petitioner-Appellant/s

Versus

1. The Union of India through the Secretary, Ministry of Labour and Employment, Govt. of India, New Delhi.
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- Respondent/s

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Appearance :

For the Appellant/s : Mr. Dhananjay Kumar Tiwary, Advocate
Mr. Shanti Kumar, Advocate

For the Respondents-E.P.F.O. : Mr. Ram Shankar Pradhan, Senior Advocate
Mr. Jainandra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

And

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 01-09-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th of February, 2015 whereby, the challenge to the order dated 11th September, 2014 refusing appointment of the appellant on compassionate ground remained unsuccessful.

2. Sri Prem Nath Ram, the father of the appellant, was working as Annubhag Supervisor in the Employees' Provident Fund



Organisation. He died on 20th of February, 2012 leaving behind wife, two sons and two daughters. The wife of the deceased made an application for appointment of the present appellant on compassionate ground which was declined by the respondents on 11th of September, 2014. It has been found that the appellant is married, the family is residing in own house which was constructed by the deceased official and Rs.12 lakh towards other emoluments, i.e. Gratuity and Provident Fund etc. were drawn by the family of the deceased, therefore, the family is not facing financial stringency. The Committee constituted for considering such cases opined that the family is not in penury and financial destitution. It was also found that as per the Circular of the Department of Personnel and Training dated 30th of May, 2013, a married son is not considered dependent on a government servant and, thus, not entitled for appointment on compassionate ground.

3. Learned counsel for the appellant refers to Supreme Court judgment reported as Canara Bank and another Versus M. Mahesh Kumar, (2015) 7 SCC 412, to contend that the benefit of family pension is not a ground for rejection of the claim for appointment on compassionate ground. Reliance was placed on paragraph 19 which reads as under:

“Insofar as the contention of the appellant Bank that since the respondent’s family is getting family pension and also obtained the terminal benefits, in our view, is of no consequence

in considering the application for compassionate appointment. Clause 3.2 of the 1993 Scheme says that in case the dependant of the deceased employee to be offered appointment is a minor, the Bank may keep the offer of appointment open till the minor attains the age of majority. This would indicate that granting of terminal benefits is of no consequence because even if terminal benefit is given, if the applicant is a minor, the Bank would keep the appointment open till the minor attains majority.”

4. We have heard learned counsel for the appellant and find no merit in the present Letters Patent Appeal. The Supreme Court was considering a scheme which contemplated that an application of a minor for appointment can be kept for a minor to attain majority. In that view it was held that grant of family pension will not be a ground to decline the request of the minor for appointment on compassionate ground.

5. In the present case, there is no such policy to keep an application for appointment on compassionate grounds to be kept pending. The policy in fact contemplates that married son is not dependant and thus cannot seek appointment on compassionate grounds. The married son is not the dependent as per the Circular dated 30th May, 2013. The argument of learned counsel for the appellant that such Circular was issued after the death of the deceased is of no consequence inasmuch as the appellant has not produced the policy which was in existence at the time of the death of the deceased. Still

further, the finding that the married son is not dependent on a government servant is the additional reason to reject the claim of the appellant for appointment on compassionate ground. Primary reasons are that the family is residing in own house and about Rs.12 lakh towards gratuity and provident fund has been drawn by the family of the deceased. The mother of the appellant is getting family pension. As a married son, the appellant has his own family to manage and to look after. The wife of the deceased has resources to sustain herself in view of the retiral benefits paid to her and also family pension.

6. In view of the above, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal. The same is, therefore, dismissed.

(Hemant Gupta, J.)

(Ahsanuddin Amanullah, J.)

Sunil/-

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