

Date of Decision : April 21, 2016

Smt. Vidya Devi		Petitioner
vs.		
State of Haryana and others		Respondents

* * *

Whether the judgment should be reported in the digest ?

* * *

Present : Mr. Manohar Lall, Advocate
for the petitioner.

Mr. J. S. Bedi, Addl. A. G., Haryana.

* * *

DEEPAK SIBAL, J. :

Through the present petition, on the death of her husband in harness, who served the respondents as Forester, the petitioner seeks appointment of either of her sons on compassionate basis.

From the arguments addressed at the bar and perusal of the record, the culled out facts are that the husband of the petitioner, while serving the respondents as a Forester, expired while on duty on 04.10.1993. Soon thereafter, the petitioner moved an application seeking employment for her two minor sons but the same was returned giving her liberty to move an application when her son attains majority. On 05.11.2008, the

petitioner moved an application seeking compassionate appointment for her elder son Parveen Kumar, which was declined, leading to the filing of the present petition for the reliefs mentioned above.

The petitioner has based her claim for seeking compassionate appointment on the instructions of the Haryana Government dated 03.11.1988 (clarified on 27.03.1991), which were applicable at the time of death of her husband. A perusal of the afore-referred instructions shows that in case the child of a deceased employee, at the time of his death, is a minor, his case is to be forwarded for approval for appointment on compassionate basis within six months from the date he attains the age of 17 years. It is further provided therein that after such period of time, the case for compassionate appointment would not be considered.

It is the admitted position that the date of birth of the petitioner's son, whose appointment was sought by her, is 13.09.1988. That being so, he attained the age of 17 years on 13.09.2005 and as per the afore-referred instructions, on which the petitioner has based her entire claim, for being forwarded, his case was required to be considered within six months after he attained the age of 17 years i.e. till 13.03.2006. It is the admitted position that the petitioner never even applied for compassionate appointment for her son Parveen Kumar at the time he attained the age of 17 years or even till three years thereafter, as the application for appointment of Parveen Kumar was made by the petitioner for the first time only on 30.10.2008. There being no application within six months of her son Parveen Kumar having attained the age of 17 years, there was no question

of forwarding his case for consideration and as per the instructions, his case could not be considered thereafter.

As per the judgment of the Apex Court in **Bhawani Prasad Sonkar vs. Union of India – (2011) 4 SCC 209**, the request for compassionate appointment is to be considered strictly in accordance with governing scheme and no discretion is to be left with any Authority to make compassionate appointment dehors the same. The relevant paragraph of the judgment is reproduced below :-

“Thus, while considering a claim for employment on compassionate ground, the following factors have to be borne in mind:

(i) Compassionate employment cannot be made in the absence of rules or regulations issued by the Government or a public authority. The request is to be considered strictly in accordance with the governing scheme, and no discretion as such is left with any authority to make compassionate appointment dehors the scheme. [Emphasis supplied]”

Even otherwise, the unexplained delay of over three years in making the application for appointment of her son after he had attained the age of 17 years is fatal while seeking compassionate appointment and in itself is a good ground to deny the same.

So far as her other son namely Pardeep Kumar is concerned, no

application was ever made by the petitioner seeking his appointment on compassionate basis.

In view of the above, on account of the delay in making the application qua her elder son Parveen Kumar and there being no application qua her other son Pardeep Kumar, no relief, as prayed for, can be granted to the petitioner. Resultantly, the writ petition is ordered to be dismissed with no order as to costs.

(DEEPAK SIBAL)
JUDGE

April 21, 2016
monika