

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :11.10.2018
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No. 30601 of 2017

V. Magesh Kumar ... Petitioner

-Vs-

1. The General manager,
Bharath Heavy Electrical Ltd (BAP)
Ranipet, Vellore District,
Tamilnadu - 632 406.

2. The Assistant General Manager,
Human Resource Department,
Bharath Heavy Electrical Ltd (BAP),
Ranipet, Vellore District,
Tamilnadu - 632 406. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the letter communication in Ref No.BAP:HR:RMX dated 21.03.2017 of the second respondent and quash the same as null and void and consequently direct the respondents to consider the petitioner's claim to compassionate appointment in the respondent company in accordance with the rules relating to compassionate appointment.

For Petitioner : Mr.K.Lavan

For Respondents : Mr.F.B.Benjamin George (for R1 to R2)

O R D E R

The order of rejection, rejecting the claim of the writ petitioner for compassionate appointment on proceedings dated 21.03.2017 is under challenge in this writ petition.

2. The petitioner states that the father of the writ petitioner Late Shri.G.Vijayakumar was employed as Sub-Inspector (Security department) and passed away on 13.11.2002, while he was in service. The deceased employee expired on account of ill-health and the writ petitioner at the time of the death of his father was Minor. The Petitioner completed his B.E. degree only in the year of 2009 and thereafter, submitted an application seeking compassionate appointment on 06.04.2013. Since, no action was taken by the respondent on the application submitted by the writ petitioner, the petitioner filed W.P.No.25549 of 2013. This Court passed an order on 06.01.2017, directing the respondents to consider the application submitted by the writ petitioner on 03.05.2013 and pass orders. Pursuant to the directions issued by this Court, the respondents considered the case of the writ petitioner and rejected his claim and issued an order in proceedings,

dated 21.03.2017, by stating that the writ petitioner is not eligible in accordance with the terms and conditions of the scheme of appointment .

3. The learned counsel appearing on behalf of the respondents states that as far as the respondent corporation is concerned the scheme of compassionate appointment is extended only in the event of death, during the course of an accident and in all other cases, the benefit of reservation is provided in respect of the appointment. Therefore, it is contended that the writ petitioner is not eligible to avail the benefit of compassionate appointment. However, in respect of the death of an employee on medical grounds, reservation is provided for appointments. Thus, the petitioner can avail the benefit of reservation, whenever a recruitment notification is issued by the respondents.

4. This Court is of an opinion that, the scheme of compassionate appointment is a special scheme and the scope of the scheme cannot be widened nor the rules can be relaxed by the authorities. The scheme being the special one is to be implemented strictly in accordance with the terms and conditions of the scheme. This apart, the scheme being in violation of Article 14 & 16 of the Constitution of India, this Court is of an opinion that the authorities, while considering the cases of compassionate appointment has to consider the same would not affect the rights of all meritorious candidates who all are aspiring to secure public employment by participating through the open competitive process. Equal opportunities in public employment is the constitutional mandate. Thus, all appointments are to be made only under the constitutional schemes and by following recruitment rules in force.

5. The compassionate appointment is not a source of appointment. It is only a special scheme to mitigate the circumstances arising on account of the sudden death of an employee. Thus, the scheme should be implemented only in respect of the cases falling within the parameters of the scope, object and terms and conditions of the scheme.

6. In the present case on hand, admittedly, the father of the writ petitioner passed away on 13.11.2002. The application itself was submitted after a lapse of 11 years by the petitioner on 06.04.2013. Thus, the penurious circumstances aroused on account of the sudden death of the employee became vanished. Thus, the very purpose for which the scheme is provided is defeated as far as the case of the writ petitioner is concerned.

7. In view of the fact that the deceased employee passed away on 13.11.2002. Now after a lapse of about 16 years, the scheme of compassionate appointment cannot be extended to the writ petitioner. However, he can avail the benefit of reservation, as per the rules in force by participating in the process of selection, whenever, a recruitment notification is issued by the respondent as per the rules in force.

8. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition, if any is closed.

11.10.2018

pns/vsi2

Internet:Yes/No

Index : Yes/No

Speaking/Non speaking order

S.M.SUBRAMANIAM, J.

vsi2

To

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