

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 145 of 2015**

- Deepak Kumar Rajak S/o Late Bhaiya Lal Aged About 34 Years R/o Tarbahar Near Guru Ghasi Das Temple, P.S. Tarbahar, Distt Bilaspur, Chhattisgarh

---- Petitioner**Versus**

1. Indian Oil Corporation Limited, Marketing Division, Through General Manager Indian Oil Corporation Limited, Marketing Division Indian Oil Bhavan, G-9 Ali Yavar Jang Marg, Bandra (East) P.S. Bandra Mumbai
2. Division General Manager Indian Oil Corporation Limited Madhya Pradesh State Office Indian Oil Bhawan, 16 Arera Hills Jail Road P.S. T.T.Nagar Bhopal, M.P.
3. Depot Manager Indian Oil Corporation Limited Branch Tarbahhar Near Railway Gate PS Tarbahar, Distt Bilaspur, C.G.

---- Respondents

For Petitioner : Shri D.K. Vishwakarma, Advocate

For Respondents : Shri Anand Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****08/11/2019**

1. Heard.
2. The present petition has been preferred by Deepak Kumar Rajak, who is the son of Late Bhaiya Lal Rajak, who was a Junior Operator, working with the respondent Indian Oil Corporation. It is stated that Bhaiya Lal Rajak died in harness on 09.09.2009, thereafter, initially a petition was filed by the petitioner bearing WPS No.4320 of 2014, wherein a prayer was made that the compassionate appointment may be granted to the petitioner. This Court by

order dated 22.08.2014 has observed as follows:-

“Application for grant of compassionate appointment has been moved by the petitioner before the respondent. The petitioner has placed on record policy dated 14/10/92 which prima facie shows that there is a scheme for rehabilitation of the family of the employee died or suffered permanent disablement while in service. The petitioner is the son of the deceased employee of the Corporation and has moved an application for compassionate appointment which is covered under Option R-3 of the policy. Therefore, the claim does not appear to be frivolous and requires consideration.

As the application of the petitioner remained pending since long without any decision, it would be proper to direct respondents to decide petitioner's representation within a period of six weeks from the date of receipt of copy of this order. The petition is accordingly finally disposed off.”

It is contended that thereafter nothing has transpired and the petitioner is still awaiting the compassionate appointment.

3. Per contra, learned counsel for the respondent Indian Oil Corporation would submit that after the death of Bhaiya Lal Rajak, the wife of Bhaiya Lal Rajak i.e. the mother of the petitioner has opted for option of rehabilitation and pursuant to that she has received an amount of Rs.1,16,263/- & Rs.30,200/- and thereafter she died on 05.01.2011. Subsequently, by letter dated 17.01.2011 the respondents informed the legal heirs of Smt. Chanda Bai to file the necessary documents so that the benefit, which accrues according to the option exercised may be provided, however, it is contended that till date the petitioner has not submitted any document, therefore, nothing can be done.
4. I have heard learned counsel for the parties and perused the documents.
5. Perusal of the papers would show that after the death of Bhaiya Lal Rajak on 09.09.2009 who was a Junior Operator at Bilaspur Depot., as per the policy of the Corporation, the wife of the deceased Smt. Chanda Bai was informed to

choose for option for rehabilitation. The document Annexure P-1, a communication which has been made to the petitioner the extract of the same is reproduced herein below:-

“Subsequent to death of your father Shri Bhaiyalal Rajak, Employee No: 44191 Ex-Operator (Field), Bilaspur Depot on 09.09.2009 as per the policy of the Corporation your mother Smt. Chanda Rai, wife of deceased employee vide our letter no. WR/PERS/FS dated: 29.09.2009, was informed about the options for rehabilitation.

Please note that as per policy of Rehabilitation under SABF your mother was given 3 options:

1. Option R-1 : Spouse of deceased employee gets pension benefits based on number of years of service and last salary drawn by deceased employee.
2. Option R-2 : Spouse of deceased employee gets last drawn salary of deceased employee till notional date of retirement and reduced pension benefits thereafter based on number of years of service and last salary drawn by deceased employee.
3. Option R-3 : Spouse of deceased can request that child may be offered an opportunity for gaining employment in the services of the Corporation.

Please note that child so chosen is required to have minimum qualification of SSC + ITI (2 years duration) in trades required in the business of the Corporation or a graduate with passing class atleast 2nd class. It is also required that said child would be below 32 years of age at the time of joining. Only unmarried child is considered for employment.

In response to the aforesaid letter we had received filled in documents duly signed by your mother alongwith an affidavit dated 22.12.2009 declaring herself as legal heir. Out of the 3 options available for rehabilitation she had exercised Option R-2 under Rehabilitation Scheme. Accordingly final settlement was done and payments were released to her under Option R-2 of SABF, from September 2009 onwards.

In your case as referred from your letters dated 21.05.2012, 21.06.2012, 31.08.2013 and with reference to discussions with you when you visited our office on 02.07.2012, we would like to inform you that since your mother had already chosen option R-2, hence such change of option at a later stage cannot be entertained. The annuity for release of pension benefits has already been processed by LIC, India in 2009 itself against which payments have also been released. Corporation's policy governing compassionate employment does not permit to make deviations from policy as stated by you in your affidavit and applications.

As far as affidavit dated: 07.09.2009 of your late father Shri Bhaiyalal Rajak is concerned, Corporation as such cannot consider it since the options of SABF is to be exercised by spouse of deceased employee only and not the by the employee himself. Under the said scheme employee does not have any authority to choose any option under SABF scheme. It may also be noted that no other family member of the deceased employee can also exercise option R-3, it has to be compulsorily exercised by the spouse only of the deceased employee.

In view of above, we regret to inform you that your application for employment cannot be considered.”

6. The documents filed by the respondent would show that the wife of the deceased namely Chanda Bai Rajak, pursuant to her option, which was exercised for the rehabilitation was paid an amount of Rs.1,16,263/- vide letter dated 14.07.2010; amount of Rs.80,670.89 was paid on 15.07.2010; and an amount of Rs.30,200/- on 23.07.2010 was also paid. Subsequent to death of Chanda Bai Rajak a letter was served to the petitioner and two sisters on 17.01.2011 (Annexure R-3), the relevant part of the letter dated 17.01.2011 is reproduced herein below:-

“In this connection, we are enclosing herewith SABF Pension Forms (Form-II) and ECS form for due completion at your end. We would request you to kindly fill up the same and return to us immediately alongwith attested copies of birth certificates of nominee and alternate nominee, in the form of School Leaving Certificate, Birth Registration Certificate, Passport or LIC policy etc. immediately for settling your pension dues at the earliest.

Please note Birth certificate of nominees and alternate nominees should be submit in HINDI or ENGLISH language only. If the same are in regional language translation copy may please be sent to us for further necessary action at our end.

Thanking you,”

7. During the course of argument, it is submitted by the learned counsel for the petitioner that earlier there had been some dispute in between the parties i.e. the brother & sisters and subsequently, it has been dissolved. In the light of

said facts since the wife of the deceased has already opted for rehabilitation scheme and part of it was received by her, the compassionate appointment could not be granted to the son the petitioner and it appears that it was rightly rejected by the corporation to grant compassionate appointment to the petitioner. With respect to the compliance of letter dated 17.01.2011 the extract of which is reproduced supra in order to avail the benefit, the petitioner along with his sisters may jointly file the application before the respondent No.3, which is locally placed, who in turn shall forward the same to the respondents No.1 & 2, thereafter shall release the necessary payment along with all arrears as payable within short reasonable time. Accordingly, it is directed that the petitioner along with the sisters shall be at liberty to file the application jointly before respondent No.3 within a period of 30 days from today and on such application being filed within 30 days then all the process of beneficiary rehabilitation and the amount which has been accrued/payable to the petitioner being the legal heir would be released to them within a period of 4 months from the date of receipt of the application.

8. With the aforesaid observation, the writ petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge