

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 886 of 2011**

Hriday Ram Dhruv, S/o. Late Khorbehra Gond, Aged about 32 years, R/o. New Mangal Bazar, Gudhiyari, Near Dubey Tent House, Matarani Chowk, Gudiyari, Raipur, Chhattisgarh

---- **Petitioner**

Versus

1. The Food Corporation of India, through: its Executive Director, Zonal Office, Bandra (East) Mumbai-400051
2. The Regional Manager, Food Corporation of India, Regional Office, Vidhan Sabha Road, Daldal-Seoni Road, Kapa, Raipur, Chhattisgarh

---- **Respondents**

For Petitioner	:	Mr. Raza Ali, Advocate under instructions of Mr. B.P. Sharma, Advocate
For Respondents	:	Mr. R.S. Patel, Advocate

Hon'ble Shri Justice P. Sam Koshy
Order on Board

13/07/2020

1. The present writ petition has been filed in the year 2011 alleging inaction on the part of the respondent authorities in not taking a decision on the application for compassionate appointment moved by the petitioner.
2. The brief facts relevant for the disposal of the present writ petition is that the father of the petitioner was working as a Labour in the Food Corporation and who died on 17.08.2000 while he was serving the respondents-Corporation. It is said that the petitioner had moved an application for compassionate appointment in the year 2001 and thereafter various reminders were also made to the petitioner, but no heed was paid by the respondent Corporation on his application and the reminders sent, which led to the filing of the writ petition on 26.11.2010 by the petitioner seeking for an appropriate relief.

3. The contention of the petitioner is that the action on the part of the respondents is arbitrary and highhandedness as the correspondences of inter-department show that the application of the petitioner was not rejected, nor was it considered and decided, it was just kept pending by the authorities and thereby the petitioner has not been considered for compassionate appointment, which otherwise the Rules stood provided. The counsel for the petitioner submits that the grounds raised by the respondents in the present writ petition would not be attracted so far as the petitioner's claim is concerned for the reason that the petitioner had timely approached the respondent authorities for compassionate appointment and therefore it cannot be said that there was any delay on the part of the petitioner, nor according to the petitioner can the respondents raised the grounds of the petitioner being over age as it was the result of the inaction on the part of the respondents, which led to the petitioner crossing the maximum age limit for employment under the respondents and lastly it was contended by the counsel for the petitioner that so far as the new policy applicable in the respondents-Corporation is concerned, the same would be hit by the judgment of the Hon'ble Supreme Court in the case of "**Canara Bank v. Mahesh Kumar & others**" 2015(7) SCC 412.
4. The learned counsel appearing for the respondents Mr. R.S. Patel on the other hand opposing the petition submits that from the pleadings in the writ petition itself it is evidently clear that the father of the petitioner died on 17.08.2000. However, the present writ petition has been filed after more than 10 years i.e. on 26.11.2010. Thus, there is a clear delay laches on the part of the petitioner in approaching the Court. The counsel for the respondents-Corporation further submits that even

otherwise, the petitioner would not be entitled for any benefit for the reason that even on the date when he had filed the writ petition, the petitioner had crossed the maximum age limit permissible for getting employment with the respondents-Corporation.

5. It was further pointed out by the counsel for the respondents that in fact the case of the petitioner could also not be considered because at the relevant point of time on account of the non-availability of vacancy within the permissible limits of appointment which could be made under compassionate grounds continuously for a period of three years and under the policy of compassionate appointment all applications beyond that stipulated period would stand closed. Thus, for all these reasons the writ petition could not be entertained and deserves to be set-aside/quashed.
6. As regards the ground of change of policy for compassionate appointment pending the writ petition as pleaded by the respondents-Corporation is concerned, this Court has no hesitation in holding that the said ground raised on the part of the respondents-Corporation is not sustainable in law in the light of the judgment laid down by the Hon'ble Supreme Court in the case of "Canara Bank" (supra) and which has been reiterated on many occasions subsequently also and the principles laid down in the said judgment still holds good. It is the policy prevailing on the date of death of the deceased employee, which would be relevant for the purpose of deciding the claim for compassionate appointment and not any subsequent policy introduced by the management.
7. However, what cannot be lost sight of in the present writ petition is the time when he approached the High Court for grant of compassionate

appointment. The date of the father of the petitioner took place in August, 2000. The petitioner has approached the High Court after more than 10 years in November, 2010. No proper justifiable reasons have been assigned for not approaching the Court earlier or for approaching the Court after a period of 10 years. It is not a case that on the date of death of the deceased employee, the petitioner was a minor. Admittedly, he had crossed the age of majority on the date of the death of the deceased employee. As per the return of the respondents, the maximum age limit for employment with the respondents-Corporation was 30 years at that point of time. That from the perusal of the cause title itself it is evidently clearly that on the date when the petitioner had filed the writ petition he had crossed the maximum age for employment under the respondents-Corporation. Relaxation in the age for grant of compassionate appointment is applicable only so far as the widow is concerned. For all other claimants, the Service Rules would be the guiding factor. Nothing prevented the petitioner from approaching the Court on an earlier occasion seeking the same relief that he is seeking in the present writ petition which was filed more than 10 years from the date of death of the deceased employee. Under the Service Law Jurisprudence particularly in the area of compassionate appointment delay is a crucial factor, which a Court must consider while deciding a petition.

8. The very object of grant of compassionate appointment is to ensure that the family members of the deceased are not put to any hardship on account of the death of the bread earner in the family. The object for compassionate appointment is to ensure that family members is not put to a stage of penury because of the death of the employee.

9. There is yet another difficulty which the petitioner faces that is of crossing the maximum permissible age limit for employment. The respondents in their reply have stated that the maximum permissible age limit was 30 years and the petitioner on the date of filing of the writ petition was 32 years i.e. he has crossed the maximum age limit permissible. By efflux of time, the petitioner today even crosses the age of 40 which also is the maximum age limit under any permissible limits including the benefits of age relaxation under the reservation etc. and on that ground also as on date it would be difficult in granting employment to the petitioner, contrary to the age limit provided under the Service Rules for getting an employment other than the widow under the compassionate Rules.
10. Given the aforesaid two major hurdles in the path of the petitioner, this Court is not inclined to proceed into the other objections which have been raised by the management, so far as the availability of vacancy or not. The writ petition accordingly fails and the same stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Ved