

07.12.2023
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WPCT 112 of 2023
Smt. Kalawati Devi & Another
– *Versus* –
Union of India & Others

Mr. S. K. Ghosh,
Mr. Raja Ghosh
... for the Petitioners.

Mr. Anil Kumar Gupta
... for the BSNL/Respondents.

Supplementary affidavit filed by the petitioners
be kept on record.

The present writ petition has been preferred
challenging an order dated 21st June, 2022 passed by
the learned Tribunal in the original application, being
OA/350/01081/2020.

Mr. Ghosh, learned advocate appearing for the
petitioners submits that the husband of the petitioner
no.1 expired on 24th December, 2000. To tide over the
financial distress due to the loss of the sole bread
earner, the petitioner no.1 submitted a representation
on 19th February, 2001 to grant compassionate
appointment to the petitioner no.2. About nine years
thereafter the High Power Committee (in short, HPC)
rejected the claim of the petitioners for compassionate
appointment by an order dated 22nd October, 2010.
Challenging the same the petitioners preferred an
original application, being O.A. 50 of 2013 which was

disposed of by an order dated 30th August, 2019 quashing the impugned order dated 25th October, 2010 and directing the respondents to conduct an enquiry to ascertain the financial condition and number of dependents and then to take appropriate decision, in accordance with law.

Mr. Ghosh argues that in spite of such direction no proper enquiry was conducted upon serving prior notice. Had such enquiry been conducted it could have been ascertained by the authorities that the petitioners are having no dwelling house and they are residing in rented accommodation. Such finding would have entitled the petitioner no.2 to avail marks towards accommodation from the HPC and he would have come within the zone of appointment.

Mr. Ghosh further submits that the impugned orders dated 26th May, 2020 and 14th November, 2011 were not even served upon the petitioners and they collected copies from their learned advocate.

He further submits that the financial indigence suffered by the deceased family was appreciated by the learned Tribunal on the earlier occasion and accordingly, directions were issued for enquiry and fresh consideration. However, no such enquiry was appropriately conducted. Such issue, as urged, was glossed over by the learned Tribunal and no finding was returned on the same. In support of his

arguments, Mr. Ghosh has placed reliance upon a judgment delivered by a co-ordinate Bench of this Court in WPCT 95 of 2023 [*Basanti Halder & Another – Vs. – The Union of India & Others*].

Per contra, Mr. Gupta, learned advocate appearing for the BSNL/respondents denies and disputes the contention of the petitioners and submits that in terms of the order dated 30th August, 2019, an enquiry committee was duly constituted comprising of four officials. It visited the area of residence of the petitioners as per the address given in the original application but they could not search out the residence and in view thereof, the competent authority decided the case on the basis of the records available.

He argues that the object of compassionate appointment is to ensure that the deceased's family tides over the financial distress caused due to the loss of the bread earner. In the present case, death occurred in the year 2000. The benefits being enjoyed by the deceased's family have been detailed in the order dated 14th November, 2019 and in the said conspectus, the learned Tribunal rightly rejected the petitioners' claim.

Mr. Gupta further submits the petitioners disputed the contention of the respondents that a team was constituted and that despite its best effort it could not search out the residential address taking a plea

that the prevailing Covid pandemic prevented them from contacting the respondent authorities, however, at that juncture, Covid situation was not prevailing. Taking into consideration such facts the learned Tribunal rightly did not interfere with the order passed by the respondent.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, the death occurred in the year 2000 and the application for compassionate appointment was made within a year. The learned Tribunal in the earlier round of litigation directed an enquiry to ascertain the financial condition and the number of dependents. Pursuant to such direction a team was constituted and the members of the enquiry committee visited the area of residence of the petitioners as per the address given in the original application but they could not search out the residence and a report to that effect was also filed. A letter was thereafter sent to the petitioner no.1 to appear before the authorities within seven days but the said letter returned with a postal remark '*no such person hence returned*'. Covid pandemic situation was not prevailing at that juncture. In the said conspectus, the learned Tribunal did not interfere with the order impugned in the original application. The decision of the co-ordinate

Bench of this Court in *Basanti Haldar & Another – Vs. – The Union of India & Others*, cited by Mr. Ghosh, is clearly distinguishable on facts.

The whole object towards grant of compassionate appointment is to enable the family members of a deceased employer to tide over a sudden financial distress. Such compassionate appointment is not a vested right and needs to be considered only on the basis of the provisions of the scheme.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the judgment impugned. The same also does not suffer from any jurisdictional error or manifest injustice warranting interference of this Court.

In view thereof, the writ petition is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Gaurang Kanth, J.)
J.)

(Tapabrata Chakraborty,