

18 29.03.23

Ct. No. 37

Akd

WP.CT. 131 of 2022

Satish Majhi & Anr.

Vs.

Union of India & Ors.

Mr. Supratim Dhar,

Mr. Tirupati Mukherjee.

... for the petitioners.

Mr. Sukumar Bhattacharya.

... for the respondent

nos. 1 to 6.

The conscious decision taken by the petitioners is attempted to be blurred taking a route, which is not recognized in the scheme framed for compassionate appointment.

Admittedly the petitioner no. 1 was employed as Track-man in the South Eastern Railway and suffered a blow of serious illness which renders him unsuitable to discharge duties and functions of Track-man. The Medical Board constituted in this regard also opined so and, therefore, he was de-categorized. However, the authorities in order to give succor to the rest of his life decided to offer him a post which according to them may be suitable for the petitioner having less responsibilities and physical activities. Admittedly the petitioner no. 1 was offered the post of Chowkidar; but he declined to accept the same.

It is now contended that several letters were written that even the post of Chowkidar requires more physical efforts and because of the medical incapacitation of the petitioner the said post is also not suitable. Amidst the aforesaid applications the petitioner no. 1 opted for voluntary retirement. The authority accepted the same and fixed the pension admissible to the petitioner no. 1 and it is not in dispute that all financial benefits attributable to the

post held by the petitioner and admissible on voluntary retirement have been paid to the petitioner no. 1.

However, the petitioner no. 1 insisted for appointment of his son being petitioner no. 2 on compassionate ground obviously the moment the petitioner no. 1 has been declared medically incapacitated to render services, the scheme of compassionate appointment envisaged so and, therefore, the authority should consider it.

The application was turned down on the score that the moment the petitioner no. 1 has been permitted to retire voluntarily, he is not entitled to seek for an appointment of his son on compassionate ground.

It is no longer res-integra that the scheme of compassionate appointment can neither be extended to an ex-employee, who completed the tenure of services and attained superannuation, nor to an employee, who seek retirement prematurely at its own volition. The object and purpose of framing such scheme is to provide sustenance to the family who has faced a sudden financial jerk because of either untimely death of the sole bread-earner or on medical incapacitation of the said breadwinner in the family. Technically the aforesaid scheme offends Articles 14 and 16 of the Constitution of India, yet it has been upheld within the contour of the constitutional provision because of the financial instability and to give support to the family who needs minimum financial protection.

The moment the aforesaid scheme is extended to a retired employee or an employee, who opted to retire prematurely, it would be opposed to the very purpose underlying the incorporation of the aforesaid scheme

and offends the Constitutional provisions relating to public employment.

The petitioner decided and applied for voluntary retirement and, therefore, in absence of any scheme for compassionate appointment, he cannot be permitted to get relief so prayed for even at one point of time he was declared medically unfit for rendering services as a Track-man.

The writ petition is devoid of merit. The same is dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)