

Chief Justice's Court

Case :- SPECIAL APPEAL DEFECTIVE No. - 352 of 2019

Appellant :- Bajrang Prasad Shukla

Respondent :- Union Of India Throu.Ministry Of Railways
New Delhi And Ors.

Counsel for Appellant :- Rahul Roshan Dubey,Avnash
Chandra Pandey

Counsel for Respondent :- Suniti Sachan,Ajit Kumar
Dwivedi,Anupam Shukla

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Jaspreet Singh,J.

C.M.Application No.95671 of 2019

1. The instant intracourt appeal has been filed by the writ petitioner being aggrieved by the dismissal of the writ petition by means of judgment and order dated 04.07.2019 whereby the writ court dismissed the claim of the petitioner seeking compassionate appointment upon the death of his father which occurred on 27.03.1973.
2. The appeal is accompanied by an application seeking condonation of delay as the appeal is reported to be barred by 12 days.
3. The Court has considered the application seeking condonation of delay and finds that the ground shown is sufficient, accordingly the delay is condoned.

On merits

4. Submission of the learned counsel for the writ petitioner-appellant is that the father of the writ petitioner died during his service on 27.03.1973 and at the relevant time, the petitioner was four years of age thereafter the writ petitioner had moved an application with the respondent employer seeking compassionate appointment only in the year 2015. The writ court has not considered the fact that the writ petitioner could not move application before the employer prior to his gaining majority and in the aforesaid circumstances, it cannot be said that the writ petitioner had approached the employer or the Court with delay. The ground taken by the learned Single Judge while dismissing the petition was the delay. In the aforesaid circumstances, it is submitted that the writ court ought to have

considered the case of the petitioner on merit and it should not have been dismissed solely on the ground of delay.

5. Shri Pratul Kumar Srivastava, learned Standing Counsel for the State-respondents, on the other hand, submits that person cannot claim compassionate appointment as a matter of right. There are certain parameters which have been laid down and have been interpreted by the Constitutional Courts holding in clear terms that compassionate appointment is the exception and not the rule. The purpose of granting such appointment is only in such circumstances where if the bread winner of the family dies during his service and there are accentuating circumstances and in order to avoid any severe consequences for the family, such appointment can be granted, subject to the fulfillment of the applicable rules.

6. It is further urged that in the instant case, the father of the petitioner expired on 27.03.1973 and the petitioner applied for compassionate appointment only in the year 2015. Thus, in the aforesaid circumstances, the writ petition was dismissed and it cannot be said that the order passed by the learned Single Judge suffers from any error. Thus, the appeal deserves to be dismissed.

7. The Court has considered the rival submissions and also perused the material on record.

8. Apparently, what stares at the face of the record is the fact that the father of the petitioner died in the year 1973. Earlier, the mother of the petitioner had moved an application only in the year 1987 i.e. after more than 14 years. This was followed by the application moved by the petitioner again in the year 1987. Repeatedly certain applications were moved in the year 1988 as alleged by the writ petitioner and its only in the year 2015 that the petitioner approached the Court for its intervention seeking a direction for respondents to consider the case of the petitioner for compassionate appointment.

9. It is well settled by catena of decisions of the Apex Court including in ***State Bank of India Vs. Surya Narain Tripathi (2014) 15 SCC page 739*** and ***State of Himachal Pradesh and another Vs. Shashi Kumar, (2019) 3 SCC 653*** that the matter of compassionate appointment is only an arrangement to help the family of the deceased who may be in financial difficulties on account of the death of the bread winner. It is not an avenue for regular employment, accordingly applying the aforesaid principle to the case at hand. It is clear that the writ petitioner did not approach the Court in time. There is no explanation as to the fact that once the respondents had informed the writ

petitioner that he was not entitled to the compassionate appointment, admittedly, sometime in the month of June 1989 as mentioned by the writ petitioner himself in the writ petition and then the writ petition came to be filed in the year 2015 i.e. after a gap of 26 years. Apparently, the writ was barred by latches. A vague attempt has been made by the writ petitioner to try to cover up the period of delay which is humongous.

11. In the aforesaid circumstances, this Court does not find that there is any error committed by the learned Single Judge dismissing the petition moved at the behest of the writ petitioner after about 40 years. Moreover, the writ petitioner has already crossed 50 years of age and looking into the totality of the circumstances, this Court does not find that it is a fit case for interference.

12. Accordingly, the appeal being devoid of merits, it is dismissed. In the facts and circumstances, there shall be no order as to costs.

Order Date :- 28.10.2023

ank

.

(Jaspreet Singh, J) (Pritinker Diwaker, Chief Justice)