

06.05.2024
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WPCT 72 of 2022
Sanjib Kumar Das
– *Versus* –
Union of India & Others

Mr. Ayan Mitra,
Mr. Mritunjay Saha,
Mr. Dilip Kumar Mondal
... for the Petitioner.
Ms. Susmita Saha Dutta,
Ms. Madhurima Basuy
... for the UoI/Respondents.

Affidavit-of-service filed by the petitioner be kept on record.

This writ petition has been instituted to question the sustainability of the order dated 6th June, 2022 passed in O.A.350/1795/2018.

By the order dated 6.8.2022, the learned Tribunal upheld the orders of the competent authority rejecting the petitioner's prayer for compassionate appointment.

Averting to the facts of this case, it would be noticed that the petitioner's father, who happened to be the employee of the Gun & Shell Factory, Cossipore, Kolkata – 700 002, died-in-harness on 14th January, 2001. The deceased got married twice. His first wife, namely, Maya Rani Das predeceased him. Then, he knotted marital tie with one Chhaya Das.

Out of his first wedlock, one son, namely, Snajay Kumar Das and one daughter, namely, Sandhya Dey (Das) were born whereas the petitioner and his sister, namely Smt. Sangita Roy (Das) were born out of the second wedlock.

Subsequently, a dispute surfaced in the conjugal life of the deceased employee and ultimately, by a decree of divorce, his nuptial ties with Chhaya was dissolved.

After the demise of the employee, there was a family dispute relating to his terminal benefits and such dispute led to a civil suit, being Title Suit no.80 of 2002. On 26th November, 2015, the said suit was decreed declaring the petitioner's entitlement to 1/5th share of the terminal benefits of the deceased employee.

In 2002, the petitioner approached the respondent authorities with an application seeking his appointment on compassionate ground. An affidavit, which was duly affirmed by the petitioner before a notary public and which was appended to that application, contained a solemn declaration of the petitioner on the names and particulars of the legal heirs of the deceased employee.

Fact remains that the petitioner omitted to mention the names and particulars of other two legal heirs who were born out of first wedlock of the deceased.

The affidavit created a suspicion and as such, the respondents undertook an enquiry to unearth the real facts. Then the petitioner submitted another affidavit detailing the names and particulars of all legal heirs who survived the deceased employee.

However, record reveals that the petitioner's prayer for compassionate appointment was considered on merits on several occasions. Eventually, by an order dated 10.11.2018,

the petitioner's claim for compassionate appointment was negated.

Aggrieved by the said order dated 10th November, 2018, the petitioner moved an original application, being O.A.350/1795/2018 before the learned Tribunal, which was dismissed by the order impugned in the writ petition.

Mr. Saha, learned advocate appearing for the petitioner seeks to contend that though mistakenly in the first affidavit, the petitioner did not mention the names of other legal heirs of the deceased but subsequently, by filing another affidavit, he disclosed the names and particulars of all the legal heirs of the deceased.

He argues that the petitioner had submitted his application for compassionate appointment in 2002. Then a dispute cropped up in the family. Such dispute gave rise to a civil suit which was decreed only in 2015. He asserts that the delay occurred for the period lost in litigation cannot be attributed to the petitioner. He prays that an appropriate direction be given to the respondents to appoint the petitioner on compassionate ground.

Ms. Saha Dutta vehemently opposes the contention, as advanced by Mr. Saha. She argues that the petitioner suppressed the material facts. She submits that after lapse of so many years, it would not be apt to direct the respondents to appoint the petitioner on compassionate ground.

Heard the learned advocates. Considered the materials on record.

Indisputably, the deceased employee died-in-harness on 14th January, 2001. The petitioner being the son of 2nd

wife of the deceased employee applied for his compassionate appointment in 2002.

Thereafter, a family dispute brewed up on the issue relating to petitioner's entitlement of terminal benefits of the deceased employee. The petitioner instituted a civil suit *vide* T.S. no. 80 of 2002. The suit was decreed in 2015 declaring the petitioner to be entitled to 1/5th share of the terminal benefits.

Indisputably, in the first affidavit, the petitioner did not disclose the names and particulars of all the legal heirs who survived the deceased. However, in the 2nd affidavit, particulars of the legal heirs were detailed.

Record reveals that the petitioner's prayer for compassionate appointment was considered in terms of the rules and/or scheme in vogue. To bring uniformity in assessment of financial condition of a family of the employee who died-in-harness, the respondents introduced a merit-point system. The petitioner scored 40 out of 100 which is much below the benchmark being 50. The last candidate who was offered appointment on compassionate ground earned 74 points. Moreover, the petitioner's family has survived for long 23 years without any employment assistance. The son born out of first wedlock is in service.

The underlying object behind introduction of a scheme for grant of compassionate appointment was to give immediate relief to the family which plunged into penury due to sudden demise of its sole bread-earner. A compassionate appointment cannot be claimed as a matter of right.

The learned Tribunal arrived at the factual findings upon considering all the materials placed before it and passed a reasoned order.

We do not find any error, least to say any patent error or jurisdictional error in the order impugned. We do not find any justification to intervene in the order passed by the competent authority negating the petitioner's claim for compassionate appointment.

As a result, the writ petition is, thus, dismissed of, however, without any order as to the costs.

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

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)