

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.1019 of 2014

Cuttack this the 12th day of December, 2017

CORAM:

THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Sri Pramod Kumar Muguri, aged 33 years, S/o. late Manik Deep,
At-Saradapalli, PO/PS-Gaisilet, Dist-Bargarh, At present
residing at Qtr.No.B/175, Sector-20, PO/PS/Sector-19,
Rourkela, Dist-Sundergarh

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant

N.M.Rout

S.Dhal

-VERSUS-

1. Steel Authority of India represented through its Managing Director, At/PO/PS-Rourkela, Dist-Sundergarh
2. Chief Executive Officer, Steel Authority of India Ltd., Rourkela Steel Plant, At/PO/PS-Rourkela, Dist-Sundergarh
3. Deputy General Manager (P&A), Steel Authority of India Ltd., Rourkela Steel Plant, At/PO/PS-Rourkela, Dist-Sundergarh
4. Deputy General Manager (PL) (Town & Medical), Steel Authority of India Ltd., Rourkela Steel Plant, At/PO/PS-Rourkela, Dist-Sundergarh
5. Director, Medical & Health Services, Steel Authority of India Ltd., Rourkela Steel Plant, At/PO/PS-Rourkela, Dist-Sundergarh

...Respondents

By the Advocate(s)-M/s.J.Patnaik

M/s.B.Mohanty

T.K.Patnaik

S.Patnaik

A.Patnaik

B.S.Rayaguru

R.P.Ray

ORDERDR.MRUTYUNJAY SARANGI, MEMBER(A):

In this Original Application, the applicant has challenged the order dated 10.10.2014 (A/4) passed by the Chief Executive Officer, Steel Authority of India Limited at the Rourkela Steel Plant(RSP) rejecting his application for compassionate appointment pursuant to the order dated 31.7.2014 of this Tribunal in T.A.Nos. 10 & 11 of 2013.

The applicant's father was working as a Medical Attendant in the Rourkela Steel Plant and died on 19.3.1991 while in service. The applicant's mother filed an application with the authorities to give compassionate appointment to her since the applicant was a minor at that time. However, as she did not have the required educational qualification for a job on compassionate appointment, her application was rejected. The applicant became a major in the year 2000 and his mother filed an application on 2.4.2001 to give appointment to her son on compassionate grounds. Since no decision was taken on the representation, the applicant filed W.P. (C) No.1722 of 2009 before the Hon'ble High Court of Orissa which transferred the Writ Petition to this Tribunal for adjudication and formed the subject matter of T.A. No.10 of 2013. Applicant's mother had also filed a case in the Hon'ble High Court of Orissa in OJC No.17336 of 1996 of 2001 challenging the rejection of her application for compassionate appointment dated 6.10.2000 and 8.12.2000. This matter was also transferred by the

Hon'ble High Court vide order dated 10.04.2013 to this Tribunal which formed the subject matter of T.A.No.11 of 2013. Both the T.As. were disposed of by this Tribunal through a common order dated 31.7.2014 directing the respondents to consider the representation of the applicant for compassionate appointment. The respondents rejected the claim on 10.10.2014. Aggrieved by the same, the applicant has filed the present O.A. praying for the following reliefs:

“...to quash the order dated 10.10.2014 under Annexure-A/14 and direct the respondents to give appointment to the applicant under compassionate assistance scheme within a stipulated period”.

2. The applicant has based his prayer mainly on the ground that the scheme for compassionate appointment to the dependants of the deceased employee is still continuing and the applicant is eligible to get relief under the scheme as adopted by the Steel Authority of India Ltd. The applicant had applied for compassionate appointment immediately after attaining the status of a major in the year 1999 and after securing his HSC qualification. However, the respondents did not consider his application and kept on delaying a decision on the application. Since he has secured the required qualification, he is eligible for a job under the compassionate appointment scheme. The rejection order dated 10.10.2014 under A/14 is liable to be quashed and the applicant is entitled to the relief prayed for

3. The respondents in their counter-reply filed on 29.3.2012 have claimed that the O.A. filed by the applicant seeking

employment as a measure of rehabilitation assistance after more than 23 years of the death of his father is completely misconceived, not sustainable in the eyes of law and is therefore liable to be dismissed. At the time of death of the employee, the applicant was around 10 years of age. His mother did not have the required educational qualification for being eligible under compassionate appointment scheme. The applicant has no right to claim for compassionate appointment and no compelling circumstances exist for grant of such relief as decided by the Hon'ble Supreme Court in State of J & K & Ors. vs. SajadAhmedMir [2006, Lab. IC 3988]. Moreover, as decided by the Hon'ble Supreme Court in LIC of India vs.AshaRamachandraAmbekar (1994) 2 SCC 718) compassionate appointment cannot be made when the regulations framed in respect thereof do not cover or contemplate such appointment. The father of the applicant was undergoing treatment in the Ispat General Hospital having suffered from Septicemia from 11.03.1991 and died on 19.03.1991. No one from his family was eligible to be considered for compassionate appointment. After a lapse of 23 years from the death of the father of the applicant, he has no right to claim compassionate appointment.

4. I have heard the arguments put forward by the learned counsels from both the sides on 30.11.2017 and perused the documents submitted by them. It is undisputed that the father

of the applicant died from a complaint of Septicemia on 19.03.1991. The applicant's mother did not have the requisite qualification for an appointment on compassionate ground. The applicant himself was only around 10 years of age at the time of the death of his father. The crucial issue to be decided in the present O.A. is whether his claim for compassionate appointment persists even after 26 years of the death of applicant's father even though the applicant became a major in 1999 and had acquired qualification of HSC at that time.

5. The compassionate appointment in the RSP is considered under the Personnel Policy Circular No.1007 dated 30.8.2011 which provides for relief/benefit to the dependent family members of the employees in cases of death, permanent/total disablement and medical invalidation. The procedure prescribed in the said circular is as follows:

"PROCEDURE"

The dependent family member shall have to apply in the prescribed Proforma for seeking compassionate appointment.

If the application has been made for providing compassionate employment to a dependent member other than the widow, the same shall be accompanied by an affidavit from the widow about his/her nomination.

An application for compassionate appointment on medical ground shall be considered based on recommendation of the Committee constituted in this regard. The committee may meet as per requirement but not later than three months of receipt of an application. The applicant may also be granted personal hearing by the committee, if

necessary, for better appreciation of the facts of the case.

Once the request for providing compassionate employment has been accepted by the competent authority, the appointment shall be processed as per the prevailing recruitment rules”.

6. Further the Policy provides as under:

“COVERAGE:

The Guidelines shall cover specifically two types of Compassionate cases which are as below:

In case of death or permanent total disablement due to accident ‘arising out of and in course of employment’ as per NJCS agreement.

In case of an employee declared incapable to perform his normal duty by the Committee constituted for this purpose, due to his/her physical/mental incapacity due to suffering from chronic debilitating diseases.

The cases of “death in harness” shall not be covered under the guidelines for dealing with appointment on compassionate cases”.

7. It is quite obvious that as per the policy being followed in RSP, compassionate appointment is not permitted for the wards of the employees who die a natural death. On that ground the applicant’s claim for compassionate appointment is not tenable.

8. The Hon’ble Supreme Court in a number of judgments has held that compassionate appointment cannot be claimed as a matter of right and should not be given at the cost of open competition among meritorious candidates.[State of J & K vs. Sajad Ahmad Mir (2006) 5 SCC 766, V.Sivamurthy vs. State of

A.P. (2008) 13 SCC 730, National Hydroelectric Power Corporation vs. Nanak Chand (2004) 12 SCC 487, Umesh Kumar Nagpal vs. State of Haryana (1994) 4 SCC 138 and State Bank of India vs. Anju Jain (2008) 8 SCC 475]. The Hon'ble Supreme Court has also made it emphatic that compassionate appointment is made to provide immediate succor to the bereaved family to tide over the economic crisis on the death of the sole breadwinner. The claim for compassionate appointment cannot linger indefinitely. [Santosh Kumar Dubey vs. State of U.P. (2009) 6 SCC 481, Eastern Coalfields vs. Anil Badyakar (2009) 13 SCC 112, State of UP vs. Paras Nath (1998) 2 SCC 412 and Haryana SEB vs. Krishna Devi (2002) 10 SCC 246]. In the event of compassionate appointment being given after a long gap of the employee's death, the very purpose of providing immediate relief to the family will be defeated. In Haryana SEB vs. Naresh Tanwar (1996) 8 SCC 23, the Hon'ble Supreme Court has made the following pertinent observation:

“9.It has been indicated in the decision of Umesh Kumar Nagpal that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad case, it has been also indicated that the very object of compassionate appointment of dependant of deceased employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years”.

9. In the present case the applicant has approached this Tribunal in the year 2014 after a gap of 23 years from the death of his father. It is quite obvious that the immediate need of the family has already been met and compassionate appointment in the present case is not to be considered as an immediate succor to the bereaved family. Consideration of compassionate appointment at this belated stage will be a travesty of the object of the scheme and also violative of right to equal opportunity among the meritorious candidates who will compete for the jobs available in the RSP.

10. In view of the above, I find no merit in this Original Application, which is accordingly dismissed, with no order as to costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

