

Court No. - 36

Case :- WRIT - A No. - 9565 of 2022

Petitioner :- Ajnabh Kumar Pandey

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Pradeep Kumar Pandey, Neeraj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Saumitra Dayal Singh, J.

1. Heard learned counsel for the parties.
2. Present petition has been filed by the petitioner to challenge the order dated 19.2.2022 passed by respondent no.3/District Inspector of Schools, Deoria, whereby the said respondent has rejected the petitioner's application for grant of compassionate appointment for reason of delay of 5 years noted therein.
3. Relevant to our discussion, it may be noted, the petitioner's father Bramhanand Pandey died in harness, on 25.6.2011, while working on the post of Principal at Swami Devanand Sanskrit Maha Vidyalaya Math Lar, District Deoria. Arising from that unfortunate occurrence, the petitioner filed an application seeking compassionate appointment on 4.1.2012. Petitioner's claim was received by DIOS on 6.1.2012. In any case, RTI query reveals, the same was received on 23.1.2012. To that date, there was no delay on part of the petitioner as may have disentitled him to claim the relief of compassionate appointment.
4. However, it is strange to note, after making the application, the petitioner did precious little.
5. The first communication on which the petitioner now seeks to rely to establish diligent conduct in pursuing the aforesaid application, is the communication dated 24.5.2017 (annexed as Annexure 4 to the writ petition) issued by the Manager of the aforesaid institution to the DIOS proposing grant of

compassionate appointment to the petitioner on the post of Teacher. Similar other communications were issued by statutory authorities including the communications dated 8.12.2017 and 10.1.2018 issued by DIOS to the Director of Education.

6. On specific query, learned counsel for the petitioner states, on the date of making the application, i.e. 23.1.2012, the petitioner had only passed intermediate examination. Thus, on that date, he was not qualified to be appointed Teacher. Only during the interregnum arising thereafter and before the matter was resurrected in the year 2017, the petitioner acquired the qualification of Graduation and B.Ed.

7. Having thus earned two degrees, the petitioner now sought to revive his application for grant of compassionate appointment on a post to which he was not entitled when the eligibility unfortunately arose to him to claim that appointment i.e. at the time of occurrence of death of his father.

8. Grant of compassionate appointment is neither a source or mode of appointment. It is an exception to the rule of equality. It exists for the benefit of an individual and family unit at the cost of the society, in general.

9. While people with more disadvantages may compete at public employment only because their parents though dead may not have been engaged in public employment, a person claiming compassionate appointment though generally better off, economically and socially, may be accommodated only to allow the family unit of the deceased employee to tide over hardships of life.

10. Looked in that light, the provision for compassionate appointment cannot be termed as a largesse granted by the State

to the family of the deceased employee. It has to be granted only to the deserving. Here, it may also be kept in mind, the family of the deceased employee receives terminal benefits.

11. Therefore, the time allowed to be spent in allowing the application to remain pending from 2012 to 2017 without effort to seek its expeditious disposal is fatal to the claim being made by the petitioner. The petitioner cannot be allowed to gain eligibility during the interregnum and then resurrect or revive his application for grant of compassionate appointment overlooking the time that had gone by. Therefore, the delay is found to be fatal to the claim made. The reasoning given by the DIOS cannot be called perverse.

12. As to the further prayer made by learned counsel for the petitioner that the petitioner is willing to take a Class IV employment, it is not for the writ Court to pass such direction to allow the petitioner take a job lower than his qualification that he may otherwise earn on his merit, whenever he may chose to act on it.

13. In view of the above, I am not inclined to exercise discretionary jurisdiction of this Court under Article 226 of the Constitution of India, as the facts do not merit such relief.

14. Accordingly, the present petition is **dismissed**.

Order Date :- 9.9.2022

Prakhar