

THE HON'BLE SRI JUSTICE D. RAMESH

WRIT PETITION No.15628 OF 2009

ORDER:-

This Writ Petition is filed under Article 226 of Constitution of India seeking the following relief:-

“...to issue an appropriate Writ, order or direction in the nature of writ of Mandamus, declaring the action of the respondents in rejecting the case of the petitioner for compassionate appointment as Casual Workman vide Proceedings No. E1/R/KVSNR/2009/6845, dated 07.07.2009 issued by the 2nd respondent as arbitrary, illegal and consequently direct the respondents to appoint the petitioner as Casual Workman”.

2. The father of the petitioner worked as a Signaller with Registration No. 11080 in the V.D.L.B and he took retirement on medical grounds vide Proceedings No. RS/L/RMG/98/179, dated 30.04.1998. As per the scheme in vogue in the VDLB as well as in the Port Trust to provide employment to the dependent of an employee, who takes retirement on medical grounds. After retirement of the father of the petitioner on medical grounds, the petitioner has made application for employment as per scheme on 16.05.1998. As per the formate prescribed, the father of the petitioner has made an application subsequently. At the time of submission of the application, the petitioner was a minor and he attained majority on 06.07.2000 and became eligible for employment. Though, interviews were continued till August-2000, but the petitioner was not called for interview by the respondents and the other persons called for interview on compassionate grounds. Hence, the petitioner has filed W.P.No.6546 of 2009. This Court after hearing on both sides, the Writ Petition was disposed of on 20.04.2009, directing the respondents to consider the case of the petitioner.

3. Pursuant to the directions of this Court given in the W.P.No.6546 of 2009, the petitioner has filed a fresh application before the respondent. The 2nd respondent considered the same and passed an order dated 07.07.2009 by rejecting the application of the petitioner, on the ground that the case of the petitioner was not found in the list prepared in the year 2000 for the reason that at the time of preparation of the eligibility list in the year 2000, the petitioner was minor. Though, the petitioner is eligible at the time of consideration in the month of August-2000 and the respondents simply rejected the application of the petitioner on flimsy grounds. Hence, questioning the rejection order, the present Writ Petition is filed.

4. Learned counsel for the petitioner has mainly contended that as per minutes of the meeting dated 30.12.1986 the guidelines for consideration of sons/ daughters/ wives of the deceased/ medically retired employees/ workers for employment. As per the said guidelines No.1 describes that the application of the children of deceased/ medically invalidated employees/ workers shall be considered subject to availability of vacancies. As per Clause No.5 describes that Applications received after two years of death/ medical retirement will not be entertained. In the case of children being minors at the time of death/ medical unfitness, applications received after attainment majority shall be considered. As per the said clause, though the petitioner is not eligible at the time of retirement on medically invalidation by the father of the petitioner, but at the time of consideration of the appointments that in the month of August, 2000, the petitioner got eligibility. In view of Clause-5 of the said minutes of the meeting, the petitioner was fully eligible for consideration under compassionate appointment under medically invalidation scheme.

5. The respondents have filed their counter, though they have denied other allegations, but there is no denial with regard to eligibility of the petitioner, at the time of consideration of others in the month of August-2000. In the counter they have averred that the respondents have received total 467 applications up to 30.04.2000 from the dependents of the deceased/ Medically invalidated workers/ employees including the case of petitioner were scrutinized during the year 1999-2000 and accordingly they have prepared eligibility list with 390 members. Hence, the petitioner case was not considered on the ground that he was not eligible at the time of preparation of the eligibility list by the respondents. Hence, they have not considered the case of the petitioner for appointment as he has not attained majority at the time of preparation of the list.

6. However, learned standing counter has relied on Clause-1 of the minutes of the meeting and stated that the consideration for compationate appointment will be only on clear vacancies. The learned counsel for petitioner has rightly pointed out that they have clearly mentioned in their affidavit that there are 20 clear vacancies available as on the date of consideration, but there is no denial with regard to such averments in the counter.

7. Considering the submissions made by both the counsel, this Writ Petition is disposed of, directing the respondents to consider the case of the petitioner on compationate grounds in terms of Clause-5 of minutes of meeting dated 30.12.1986 and pass appropriate orders within two months from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of. No order as to costs.

The miscellaneous applications pending, if any, shall also stand closed.

JUSTICE D. RAMESH

Date: 08.04.2021

KK

THE HON'BLE SRI JUSTICE D. RAMESH

WRIT PETITION No.15628 OF 2009

Date: 08.04.2021

KK