

STEEL AUTHORITY OF INDIA LIMITED

A

v.

GOURI DEVI

(Civil Appeal No. 6910 of 2021)

NOVEMBER 18, 2021

B

[M. R. SHAH AND SANJIV KHANNA, JJ.]

*Service Law: Compassionate appointment – Delay and laches in case of appointment on compassionate ground – Deceased employee died in the year 1977 – Application for compassionate appointment by eldest son was rejected – Despite that after a period of 18 years of the date of the death of the deceased employee, application by widow of the deceased employee to appoint her second son on compassionate ground – Tribunal directed the appellant to re-consider the case and to appoint the second son on compassionate ground, which order was confirmed by the High Court by impugned judgment – Appeal by employer – Held: It was held in *Sajad Ahmed Mir that once it is proved that inspite of the death of the bread winner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground – Applying the law laid down in *Sajad Ahmed Mir, the second son of respondent is not entitled to appointment on compassionate ground – Delay and laches.*

C

D

E

Allowing the appeal, the Court

HELD: 1. Apart from the fact that in the impugned judgment and order, the Division Bench has not at all given any specific independent findings, it can be seen that except narrating the submissions on behalf of the respective parties, there is no further discussion at all on merits and there is no discussion at all on delay and laches. Even otherwise, on merits also, the respondent shall not be entitled to appointment on compassionate ground on the ground of delay and laches. [Para 5.1][40-A-B]

F

G

2. In the present case, the second application was made after a period of 18 years, the impugned judgment and order passed by the High Court and that of the Central Administrative

H

- A **Tribunal directing the appellant to re-consider the case of the second son of the respondent is unsustainable and deserves to be quashed and set aside and accordingly the same are hereby quashed and set aside. [Para 6][40-G-H]**

- B *Punjab State Power Corporation Limited and Ors. v. Nirval Singh*, (2019) 6 SCC 774 : [2019] 7 SCR 905; **State of J & K and Ors. v. Sajad Ahmed Mir* (2006) 5 SCC 766 : [2006] 3 Suppl. SCR 576 – relied on.

Case Law Reference

- | | | | |
|---|-------------------------|-----------|----------|
| C | [2019] 7 SCR 905 | relied on | Para 5.2 |
| | [2006] 3 Suppl. SCR 576 | relied on | Para 5.3 |

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6910 of 2021.

- D From the Judgment and Order dated 05.02.2021 of the High Court of Orissa at Cuttack in Writ Petition (Civil) No.7791 of 2020.

Yashraj Singh Deora, Ms. Prakriti Roy, Ms. Sonal Mashankar, Advs. for the Appellant.

The Judgment of the Court was delivered by

- E **M. R. SHAH, J.**

- F 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 05.02.2021 passed by the Division Bench of the High Court of Orissa at Cuttack in Writ Petition No. 7791 of 2020 by which the Division Bench of the High Court has dismissed the said writ petition preferred by the appellant herein and has confirmed the judgment and order passed by the learned Central Administrative Tribunal passed in T.A. No.14 of 2014 wherein the learned Tribunal directed the appellant to consider the case of the respondent – original applicant's second son for appointment on compassionate ground, the Steel Authority of India Limited has preferred the present appeal.

- G 2. Though served nobody appeared on behalf of the respondent.

3. The issue involved in the present appeal is in a very narrow compass.

- H 4. The deceased employee died in the year 1977. The eldest son approached the authority for compassionate appointment. His case was

considered as per the scheme applicable at the time of death of the deceased employee, i.e., circular dated 01.09.1975 and his application for appointment on compassionate ground was rejected. A

4.1 After a period of more than 18 years of the death of her husband, the widow of the deceased employee filed a Writ Petition being OJC No. 783 of 1996 before the High Court with prayer to appoint her second son on compassionate ground. B

4.2 At this stage, it is required to be noted that in the writ petition, the order dated 17.10.1977 rejecting the application for appointment of the eldest son on compassionate ground, was not under challenge. By the order of the High Court, the writ petition was transferred to the Central Administrative Tribunal, Cuttack, which was registered as T.A. No. 14 of 2014. By the judgment and order dated 28.11.2019, the learned Tribunal disposed of T.A. No. 14 of 2014 and directed the appellant to re-consider the case of Ramesh Chandra Khuntia, second son of the deceased in accordance with the scheme of compassionate employment. The writ petition filed by the appellant before the High Court being Writ Petition No. 7791 of 2020 has been dismissed by the Division Bench of the High Court by the impugned judgment and order. C D

4.3 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, the Steel Authority of India Limited has preferred the present appeal. E

5. Having heard the learned counsel appearing on behalf of the appellant and from the facts narrated hereinabove, it emerges that the deceased employee died in the year 1977 and the second application for appointment on compassionate ground by the widow to appoint her second son was filed in the year 1996, i.e., after a period of 18 years of the date of the death of the deceased employee. F

5.1 At this stage it is required to be noted that in the year 1977, the eldest son made an application for appointment on compassionate ground, which was rejected in the year 1977 and the same has attained finality. Despite the above fact, second time the application was filed in the year 1996 now to appoint the second son, which was after a period of 18 years. Despite the fact that there was a delay of 18 years in making the second application, unfortunately, the learned Tribunal still directed the appellant to re-consider the case and to appoint the second son on compassionate ground, which has been confirmed by the High Court by H

- A the impugned judgment and order. Apart from the fact that in the impugned judgment and order the Division Bench has not at all given any specific independent findings, it can be seen that except narrating the submissions on behalf of the respective parties, there is no further discussion at all on merits and there is no discussion at all on delay and laches. Be that it may, even otherwise, on merits also, the respondent shall not be entitled to appointment on compassionate ground on the ground of delay and laches.
- B

- 5.2 As held by this Court in the case of **Punjab State Power Corporation Limited and Ors. Vs. Nirval Singh, (2019) 6 SCC 774** delay in pursuing claim/approaching court would militate against claim for compassionate appointment as very objective of providing immediate amelioration to family would stand extinguished. Before this Court, there was a delay of 07 years in approaching the Court and this Court observed and held that on the ground of delay itself, the heir/dependent of the deceased employee shall not be entitled to the appointment on compassionate ground.
- C
- D

- 5.3 In the case of **State of J&K and Ors. Vs. Sajad Ahmed Mir (2006) 5 SCC 766**, this Court had occasion to consider the delay and laches in case of appointment on compassionate ground. By dismissing the claim for appointment on compassionate ground, which was made after a period of four and a half years of death of the deceased employee, it was held that appointment on compassionate ground is an exception to general rule that appointment to public office should be made on the basis of competitive merits. It is further observed that once it is proved that in spite of the death of the breadwinner, the family survived and substantial period is over, there is no need to make appointment on compassionate ground at the cost of the interests of several others ignoring the mandate of Article 14 of the Constitution.
- E
- F

6. In view of the above and for the reasons stated above, applying the law laid down in the aforesaid decisions and considering the fact that in the present case the second application was made after a period of 18 years, the impugned judgment and order passed by the High Court and that of the Central Administrative Tribunal directing the appellant to reconsider the case of the second son of the respondent is unsustainable and deserves to be quashed and set aside and accordingly the same are hereby quashed and set aside. It is observed and held that the second son of the respondent shall not be entitled to the appointment on
- G
- H

compassionate ground as observed and held by the learned Central A
Administrative Tribunal confirmed by the Division Bench of the High
Court by the impugned judgment and order. Present appeal is allowed
accordingly. In the facts and circumstances of the case, there is no
order as to costs.

Devika Gujral

Appeal allowed.