

A THE GOVT. OF INDIA & ANR.

v.

P. VENKATESH

(Civil Appeal No. 2425 of 2019)

B MARCH 01, 2019

**[DR. DHANANJAYA Y CHANDRACHUD AND
HEMANT GUPTA, JJ.]**

Service law:

C *Compassionate appointment – Claim of – Delay of over a decade in raising a claim by son of the deceased government employee– Effect of – Held: Essence of the claim of compassionate appointment lies in the immediacy of the need – Recourse to the tribunal suffered from a delay of over a decade in the first instance – Staleness of the claim took away the very basis of providing*
D *compassionate appointment – Thus, the claim of compassionate appointment is rejected – Judgment of the High Court which had allowed the claim is set aside – Delay/laches.*

Administration of justice:

E *Speedy disposal of cases – ‘Dispose of the representation’ mantra – Effect of – Held: Is increasingly permeating the judicial process in the High Courts and the tribunals – Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions – However, they do no service to the cause of justice – Litigant is back again before the court, having incurred*
F *attendant costs and suffered delays of the legal process.*

Allowing the appeal, the Court

HELD: 1.1 Compassionate appointment, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. It is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected in 1997. The tribunal,

H

unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Government rejected the representation in 2007, it was only in 2010 that the tribunal was moved again, with the same result. These successive orders of tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the tribunal for compassionate appointment over a decade after the death of the deceased employee. This ‘dispose of the representation’ mantra is increasingly permeating the judicial process in the High Courts and the tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee. [Para 8][981-D-H; 982-A]

1.2 The recourse to the tribunal suffered from a delay of over a decade in the first instance. This staleness of the claim took away the very basis of providing compassionate appointment. The claim was liable to be rejected on that ground and ought to have been so rejected. The judgment of the High Court is unsustainable and is set aside. The judgment of the tribunal dismissing the Original Application is upheld. [Paras 11, 12] [982-G; 983-A]

Umesh Kumar Nagpal v. State of Haryana (1994) 4 SCC 138 – referred to

Case Law Reference

(1994) 4 SCC 138 referred to Para 8
CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2425 of 2019.

From the Judgment and Order dated 09.08.2016 of the High Court of Judicature at Madras in W.P. No. 4598 of 2014.

A Ms. Madhavi Divan, ASG, Ms. Uttara Babbar, Dhruv Pall, Ms. Bhavana Duhoon, Gurmeet Singh Makker, Advs. for the Appellants.
Aravindh S., Adv. for the Respondent.

The Judgment of the Court was delivered by

B **DR. DHANANJAYA Y CHANDRACHUD, J.**

1. Leave granted.

2. A Division Bench of the High Court of Judicature at Madras, by its judgment dated 9 August 2016, issued a *mandamus*, while setting aside the order of the Central Administrative Tribunal, and directed the appellants to grant appointment on a compassionate basis to the respondent within a period of three months from the date of the order.

3. The father of the respondent, who was working in the Union Ministry of Information and Broadcasting, died on 25 May 1996. The widow of the deceased employee made a representation for compassionate appointment. On 3 January 1997, the representation submitted by her was rejected. Thereafter, a fresh representation was made, which was considered and rejected in the Minutes of a Meeting held on 1 July 1999, which considered similar requests by several other employees.

4. In 2007, the respondent initiated proceedings¹ before the Madras Bench of the Central Administrative Tribunal. The Tribunal, by its order dated 26 June 2007, directed the appellants to consider the representation of the respondent dated 14 February 2006 by a speaking order. The OA was disposed of. Accordingly, on 13 November 2007, a speaking order was passed rejecting the representation.

5. The respondent then filed another OA² before the Tribunal on which an order was passed on 16 March 2011 directing the appellants to dispose of the representation after re-consideration. Again, when the claim for compassionate appointment was rejected on 25 August 2011, the respondent moved the Tribunal in a third OA³. The Tribunal dismissed the OA by an order dated 30 April 2013, holding that the claimant was not eligible under the Scheme⁴ under which the maximum period for which the name of a candidate for compassionate appointment could be kept for consideration was three years.

¹OA 430 of 2007

²OA 1389 of 2010

H ³OA 183 of 2012

⁴DOP&T OM No. 14014/3/2011 - ESST(D) dated 26.07.2012

6. Following the order of the Tribunal, the respondent filed a Writ Petition before the High Court in which the impugned order has been passed, setting aside the judgment of the Tribunal and granting a *mandamus* for appointment on a compassionate basis. The High Court observed, after perusing the record, that though the representation had been rejected on the ground that the elder brother of the respondent was gainfully employed, as a matter of fact, his salary certificate indicated that he was working on a daily wage basis.

7. We have heard Ms. Madhavi Divan, learned Additional Solicitor General appearing on behalf of the appellants and Mr. Aravindh S., learned counsel appearing on behalf of the respondent.

8. The primary difficulty in accepting the line of submissions, which weighed with the High Court, and were reiterated on behalf of the respondent in these proceedings, is simply this: Compassionate appointment, it is well-settled, is intended to enable the family of a deceased employee to tide over the crisis which is caused as a result of the death of an employee, while in harness. The essence of the claim lies in the immediacy of the need. If the facts of the present case are seen, it is evident that even the first recourse to the Central Administrative Tribunal was in 2007, nearly eleven years after the death of the employee. In the meantime, the first set of representations had been rejected on 3 January 1997. The Tribunal, unfortunately, passed a succession of orders calling upon the appellants to consider and then re-consider the representations for compassionate appointment. After the Union Ministry of Information and Broadcasting rejected the representation on 13 November 2007, it was only in 2010 that the Tribunal was moved again, with the same result. These successive orders of Tribunal for re-consideration of the representation cannot obliterate the effect of the initial delay in moving the Tribunal for compassionate appointment over a decade after the death of the deceased employee. This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality

A to the dispute. By the time, the High Court issued its direction on 9 August 2016, nearly twenty one years had elapsed since the date of the death of the employee.

In Umesh Kumar Nagpal Vs. State of Haryana⁵, this Court held thus:

B “2...The whole object of granting compassionate employment is
 C thus to enable the family to tide over the sudden crisis. The object
 is not to give a member of such family a post much less a post for
 D post held by the deceased. What is further, mere death of an
 employee in harness does not entitle his family to such source of
 livelihood. The Government or the public authority concerned has
 to examine the financial condition of the family of the deceased,
 and it is only if it is satisfied, that but for the provision of
 employment, the family will not be able to meet the crisis that a
 job is to be offered to the eligible member of the family. The posts
 in Classes III and IV are the lowest posts in non-manual and
 manual categories and hence they alone can be offered on
 compassionate grounds, the object being to relieve the family, of
 the financial destitution and to help it get over the emergency.”

Bearing in mind the above principles, this Court held:

E “6. For these very reasons, the compassionate employment cannot
 be granted after a lapse of a reasonable period which must be
 specified in the rules. The consideration for such employment is
 not a vested right which can be exercised at any time in future.
 F The object being to enable the family to get over the financial
 crisis which it faces at the time of the death of the sole breadwinner,
 the compassionate employment cannot be claimed and offered
 whatever the lapse of time and after the crisis is over.”

G 9. The recourse to the Tribunal suffered from a delay of over a
 decade in the first instance. This staleness of the claim took away the
 very basis of providing compassionate appointment. The claim was
 liable to be rejected on that ground and ought to have been so rejected.
 The judgment of the High Court is unsustainable.

H ⁵(1994) 4 SCC 138

10. We accordingly allow the appeal and set aside the impugned judgment and order of the High Court. In consequence, we affirm the judgment of the Tribunal dismissing the Original Application. There shall be no order as to costs. A

Nidhi Jain

Appeal allowed.