

State Of Haryana And Ors. vs Vipin Kumar on 23 January, 2002

Equivalent citations: AIR2002SC2867, [2003(96)FLR180], 2002LABLC2940, (2002)IIILLJ1089SC, 2002(2)SCALE178, AIR 2002 SUPREME COURT 2867, 2002 AIR SCW 3261, 2002 LAB. I. C. 2940, (2002) 2 BLJ 209, 2002 (2) SCALE 178, 2002 BLJR 1 735, 2002 (2) SLT 265, (2002) 2 PAT LJR 121, (2003) 96 FACLR 180, (2002) 3 LABLJ 1089, (2002) 4 LAB LN 62, (2002) 2 SCALE 178, (2002) 2 JLJR 3

Bench: S. Rajendra Babu, Ruma Pal

JUDGMENT

C.A. No. 4716/2000.

1. The respondent's father Kundan Singh who was Junior Engineer in the Irrigation Department of the appellants died in harness on 2-1-1993, survived by his wife, son and two daughters. The widow of the said Kundan Singh applied for a compassionate appointment in accordance with the instructions issued by the appellants from time to time and ultimately an offer of appointment was made by the respondent in the post of Clerk in the Irrigation Department.

2. Not being satisfied with that offer, he filed a writ petition before the High Court seeking for a direction that he should be appointed to a post carrying one scale below the pay scale in which his father was drawing salary at the time of his death i.e. 2000-3200. The High Court took the view that the competent authority had not passed an appropriate order and it should have made an order in such a way that his case should have been considered for appointment in a pay scale lower than the pay scale of Re. 2000-3200 available in the Irrigation Department while the scale offered to the respondent was Rs. 950-1500 which has been revised subsequently. In an identical matter this Court had occasion to examine the scope of the said rules in State of Haryana and others v. Rajeev Deshwal SLP (C) No. 778/1999 disposed of on 22-3-1999 and interpreted the expression that "appointment should be one step below" as follows :

"In our opinion this interpretation of the said clause by the High Court is erroneous. This clause means that the offer of appointment to the deceased employee's dependant is not to be on post equivalent to the one which was held by the deceased employee but should be on a lower post by at least one step. Therefore, in the present case when the deceased employee was Deputy Superintendent of Police, the offering of the post of A.S.I, was not incorrect"

3. All that need to be done is that, post that is offered to the respondent claiming a post on compassionate ground, should be at least one step below that was held by the deceased employee and that does not mean it should be the immediate post below it, it could be even lower than that. If that is the correct interpretation to be placed of the relevant rules, the post offered to the respondent

appears to us to be correct. Hence the view of the High Court is erroneous. The order made by the High Court is, therefore, set aside and the writ petition filed by the respondent is dismissed. However, it is made clear that as the respondent has joined the post as per the orders made by the Government, he may continue to serve on the said post. The appeal is allowed accordingly.

(Arising out of SLP(C) 13719/2000)

4. Leave granted.

5. The questions raised in this appeal are identical to those considered by us in C.A. No. 4718/2000. For the reasons stated therein this appeal shall stand allowed in the same terms as set forth therein.