

S. Mohan

Vs

Government of T.N. and Another

Civil Appeal No. 3057 of 1991

(Sujata V. Manohar, D. P. Wadhwa JJ)

12.11.1997

ORDER

1. The mother of the appellant died in harness on 8-1-1974 after more than twenty years of service as a teacher in the Bodinayakanur Municipal Girls' Middle School. At the time of her death, out of her three sons including the appellant, two were employed. Nothing is mentioned about the terminal benefits received by the family on the death of the mother. The father of the appellant, at the time of the death of the mother, was receiving a small pension of less than Rs. 300 per month.

2. Ten years and eight months thereafter, on 6-9-1984 the appellant was appointed by the respondents in a leave vacancy for a period of three months on compassionate grounds. His services were terminated on 17-12-1984. Thereafter the appellant on 12-8-1985 submitted full particulars regarding the family of his deceased mother, the status of the two brothers and their income and also particulars regarding the income of the father. On 19-10-1987, he was appointed as Junior Assistant in Bodinayakanur Municipality on compassionate grounds. The order of appointment is produced before us. The subject relates to the appointment of the appellant as Junior Assistant on compassionate grounds. The appellant, accordingly, joined duty. The appellant's service was terminated under an order dated 3-1-1990. This order, inter alia, states that the appellant had requested the respondents not to issue any adverse orders since he had applied to the Government for ratification. His application for ratification was forwarded to the Secretary to the Government through proper channel under office letter dated 13-11-1989. However, the Municipal Administration and Water Supply Department by its order dated 21-12-1989 had refused to ratify the appointment of the appellant on compassionate grounds and had directed immediate action to be taken and a report sent. Accordingly by the said order, the services of the appellant were terminated and he was requested to hand over the charge immediately.

3. Thereupon, the appellant moved the Tamil Nadu Administrative Tribunal, Madras Bench. Under an interim order of the Tribunal, the appellant was continued in service. Ultimately, by its order dated 14-12-1990, the Tribunal dismissed the application of the appellant holding that his appointment was contrary to the government orders in that connection and that the action of the Government in not ratifying the appointment was correct. The appellant has filed the present appeal.

4. Learned counsel for the appellant has strenuously urged that the appointment of the appellant on compassionate grounds was justified and that the appellant had not suppressed any fact at the time of seeking appointment on compassionate grounds. The question, however, is whether in the facts and circumstances set out, could the appointment of the appellant have been made on compassionate grounds after a lapse of 10 years from the date of the death of his mother. Secondly, whether the circumstances justify the appointment of the appellant on compassionate grounds. On the first

question, this Court, in the case of Umesh Kumar Nagpal v. State of Haryana ((1994) 4 SCC 138 : 1994 SCC (L&S) 930 : (1994) 27 ATC 537) SCC at p. 141 has observed that 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. 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. In the present case, at the time of the death of the mother, she was not the sole breadwinner of the family. Two sons were already employed and the father was receiving a small pension. The appellant sought employment on compassionate grounds after a lapse of 10 years. It was, therefore, obvious that there was no immediate financial crisis in the family which would warrant any out of turn appointment of the appellant on compassionate grounds. The financial crisis, if any, caused by the death of the mother was 10 years prior to the application of the appellant. At the time of the death of his mother, the appellant was around 12 or 13 years of age and his two brothers were employed. Looking to all the circumstances, the Government had rightly refused to give him appointment. The fact that the appellant was continued in service on account of the interim orders passed during the pendency of the proceedings taken out by the appellant will not be of any help to the appellant since he was throughout aware that these were only interim orders which were subject to the outcome of the proceedings. We do not see any reason to set aside the order of the Tribunal. The appeal is, therefore, dismissed. There will, however, be no order as to costs.