

SUPREME COURT OF INDIA

Manti Devi (D) Lrs.

Vs.

State of Bihar

S.L.P.(Civil.)No. 3962 of 2012

(K.S.Radhakrishnan and A.K.Sikri, JJ.)

21.11.2013

JUDGMENT

A.K.Sikri, J.

1. The admitted facts are that one Shiv Nath Mahto (hereinafter referred to as "deceased employee") was appointed as a Translator-cum- Proof Reader with the respondent in the year 1971. He earned certain promotions during his career in the year 2007, he was working as District Public Relation Officer. His normal age of retirement/superannuation was 30th November 2008. However, vide orders dated 29th June 2007 the State Government took a decision to compulsorily retire him from service under the provision of Rule 74 of Bihar Service Code. This order was made effective from 30th June 2007 as a result whereof, he was relieved from service w.e.f. 1st July 2007. Unfortunately, he died on 20th September 2008.

2. After his death, his widow Smt. Manti Devi sent a representation dated 24.11.2008 stating that her husband was illegally retired from service. She also submitted that as there was no earning member in the family, her elder son be given compassionate appointment. This representation did not invoke any response which forced Manti Devi to file Writ Petition in the High Court of Judicature at Patna. This Writ Petition came to be dismissed by the learned Single Judge vide orders dated 29th July 2011. Manti Devi filed Intra Court Appeal before the Division Bench which has also been dismissed by the High Court on 25.10.2011. Since Manti Devi also passed away thereafter, present SLP is preferred by the children of Manti Devi and deceased employee, challenging the judgment of the High

Court.

3. A perusal of the order of the learned Single Judge as well as Division Bench discloses that even when the order of compulsory retirement was served upon the deceased employee on the very next date, no objection was raised by him till his demise one year and three months later. Learned Single Judge has further observed that on 28.12.2007, the deceased employee has himself accepted his continued illness, leading to his compulsory retirement and it shows that such an order was passed in public interest. It is only after his death that his widow has taken up the issue and under the garb on challenging the order of compulsory retirement, she, in fact, wanted her elder son to be appointed on compassionate basis. In these circumstances, the learned Single Judge refused to grant any relief to the writ petitioner and dismissed the Writ Petition. For same reasons, the Division Bench has also found no merit in the appeal preferred by Manti Devi.

4. Before us, the learned counsel for the petitioner was candid in his submission that the petitioner, elder son of deceased employee, wanted relief by way of compassionate appointment which was the main purpose of present SLP. However, such a relief cannot be granted to a person whose father did not die in harness and as his death occurred after his compulsory retirement. Even otherwise, on our pertinent query, we were informed that the elder son is about 35 years of age. By no stretch of imagination such a direction can be given to appoint him on compassionate basis.

5. This Special Leave Petition is rejected.