

SUPREME COURT OF INDIA

Rajasthan State Road Transport Corporation.

Vs.

Danish Khan

C.A.No.7802 of 2019

(L.Nageshwara Rao and Hemant Gupta,JJ.,)

04.10.2019

JUDGMENT

L.Nageswara Rao,J.,

SLP (C) No.4772 of 2017

1. The Rajasthan State Road Transport Corporation (for short, 'the Corporation') has filed the above Appeal aggrieved by the judgment of the Rajasthan High Court of Judicature, Jaipur Bench by which Regulation 4(3) of the Rajasthan State Road Transport Corporation Compassionate Appointment Regulations, 2010 (for short, 'the Regulations') has been declared as violative of Article 14 of the Constitution of India.

2. The Respondent's father Mohd. Shahid who was working as a Helper in the Appellant-Corporation died in a motor accident. He was travelling in a bus of the Appellant-Corporation which collided with another bus. A claim was made by the Respondent before the Motor Accident Claim Tribunal, Tonk (for short, 'the Tribunal') under Section 166 and 140 of the Motor Vehicles Act, 1988 (for short, 'the Act'). An amount of Rs.1,35,50,000/- was claimed, but the Tribunal awarded a compensation of Rs.22,95,775/-.

3. The Respondent made a representation to the Chief Manager of the Appellant-Corporation seeking compassionate appointment. The request for compassionate appointment was rejected on the ground that the Respondent was not entitled in light of Regulation 4(3) of the Regulations. Dissatisfied with the rejection of the request for compassionate appointment, the Respondent filed a Writ Petition in the High Court challenging the constitutionality of Regulation 4(3). The High Court allowed the Writ Petition by a judgment dated 29.08.2016 on the ground that Regulation 4(3) of the Regulations is discriminatory and violative of Article 14 of the Constitution.

4. The High Court held that the object of compassionate appointment is to mitigate the hardship of the family members of the bread-winner and for that reason compassionate appointment should be provided to the family in distress. According to Regulation 4(3) of

the Regulations, claim for both compassionate appointment and compensation under the Act cannot be made against the Corporation in case of death of an employee while travelling in the vehicle of the Appellant-Corporation. Regulation 4(3) was found to be discriminatory because compassionate appointment can be provided to an employee who dies in an accident while travelling in a vehicle not belonging to the Corporation though he had claimed compensation either from the owner of the vehicle or the insurance company, under the Act.

5. Before proceeding further, it is relevant to take note of Regulation 4(3) of the Regulations which is as follows:

"On the occasion of death of any employee of the Corporation while performing his duty or a vehicular death by the vehicle belonging to the Corporation, if the legal representatives of the deceased employee seek compensation from the Corporation by filing a claim petition before the accident tribunal and the same is awarded or the matter remains pending before the tribunal. In such a case the Legal representatives of the deceased employee shall have no right to seek appointment on compassionate ground, if compensation is awarded or the matter remains pending before the tribunal, if on the death of an employee of the Corporation his Legal representative at the time of compassionate appointment files an application for the same in the prescribed format then the application for appointment on compassionate ground has to be supplemented with an Affidavit on a non-judicial stamp paper of Rs.10/- by the legal representative that no claim petition against the corporation has been filed before any competent court and also that no such claim shall be filed in the future and if in future even if any of the legal representatives files a claim petition before MACT then the employer/ Corporation shall have right to cancel my appointment without any notice and that i won't file any case against such dismissal before any competent court."

6. According to the said Regulation, the death of an employee of the Corporation while travelling in a vehicle belonging to the Appellant-Corporation cannot give rise to compensation under the Act as well as a claim for compassionate appointment in the Appellant- Corporation. The question that arises for our consideration is whether the High Court was right in holding that Regulation 4(3) is discriminatory and violative of Article 14 of the Constitution. The reason given by the High Court to hold it unconstitutional is that whereas the dependents of the employee who died in an accident while on a vehicle owned by the Appellant-Corporation are not entitled for compassionate appointment after claiming compensation under Act, the dependents of an employee who died in an accident while travelling in a vehicle not owned by the Appellant-Corporation are entitled to get compensation under the Act against the owner of the vehicle or the insurance company as the case may be, as well as a right to claim compassionate appointment. The High Court was of the opinion that the dependents of employees of the Corporation who died due to an accident while travelling in a vehicle of the Corporation cannot be treated differently from dependents of employees who died in an accident while travelling in a vehicle not belonging to the Corporation.

7. The Corporation has carved out two classes of dependents of the deceased employees in respect of claims for compassionate appointment. The reason for the disqualification of the dependents of an employee who died in an accident involving the vehicle of the Corporation is to avoid extra burden on the Appellant- Corporation. In such cases, the Appellant- Corporation has to pay the compensation under the Act and also to provide compassionate appointment to the dependents of the deceased employee. In a case where the vehicle of the Appellant- Corporation is not involved in the accident, the compensation under the Act is not the liability of the Appellant- Corporation. It cannot be said that the dependents of an employee who claim both compensation under the Act and compassionate appointment from the Appellant- Corporation are on the same footing as the dependents of the deceased employee whose claim under the Act against a private owner or an insurance company, and compassionate appointment from Appellant- Corporation.

8. The dependents of a deceased employee who claim compensation from the Corporation under the Act and compassionate appointment from the Appellant- Corporation from a separate class. It is well-settled that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purposes of legislation. When any impugned rule or statutory provision is assailed on the ground that it contravenes Article 14, its validity can be sustained if two tests are satisfied. The first test is that the classification on which it is founded must be based on an intelligible differentia which distinguishes persons or things grouped together from others left out of the group; and the second test is that the differentia in question must have a reasonable relation to the object sought to be achieved by the rule or statutory provision in question.

9. Having held that the classification of the two categories of dependents of deceased employees is reasonable, what remains to be examined is whether there is a rationale nexus of the classification with the objective sought to be achieved by the Regulations 4(3). The intention with which Regulation 4(3) is made is to obviate the liability of the Corporation in payment of compensation under the Act and to provide compassionate appointment to the same person. We find there is a rational nexus between the basis of classification and the object sought to be achieved by the Regulation.

10. It is useful to refer to a judgment of this Court in *National Insurance Company Limited v. Re k ha ben and Others*¹. The question that arose for consideration of this Court related to the deduction of salary that was earned by the claimant therein after being appointed on compassionate grounds while calculating the compensation payable to her under the Act for the death of her husband. It was held that the salary earned by compassionate appointment cannot be deducted from the compensation which the claimant is entitled under the Act. However, it was made clear that the salary which flowed from the compassionate appointment that was provided by the tortfeasor was liable to be deducted if the employer was the owner of the offending vehicle and thus liable to pay compensation under the Act. In other words, the employer who has provided compassionate appointment can claim deduction of the salary of the dependent while calculating if he is liable to pay compensation under the Act, being the owner of the offending vehicle.

11. The two categories of dependents i.e. dependents of employees who have died in an accident while travelling in a vehicle belonging to the Corporation and dependents of the employees who died while travelling in a vehicle not belonging to the Corporation are not similarly situated in respect of their claims against the Corporation. They cannot be treated as equals. Therefore, Regulation 4(3) cannot be said to be discriminatory. In the aforementioned view, we are not in agreement with the judgment passed by the High Court that Regulation 4(3) is violative of Article 14 of the Constitution.

12. As the Respondent has received the compensation under the Act, he is not entitled for compassionate appointment under the Regulations.

13. In view of the above, the judgment of the High Court is set aside the Appeal is allowed. The application preferred by the Respondent for compassionate appointment was rejected by the Corporation as being not maintainable under Regulation 4(3) of the Regulations, due to the fact that the Respondent has filed a claim petition under the Act. The High Court allowed the Writ Petition as being covered by a judgment in Civil Writ Petition No.13862 of 2014. The Appeal filed by the Corporation is allowed in terms of the judgment in Civil Appeal No. 7802 of 2019 (@ S.L.P.(C) No.4772 of 2017).