

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.2635 OF 2009
[Arising out of SLP(C) No.20608 of 2006]

FOOD CORPORATION OF INDIA & ORS.

... Appellant(s)

Versus

RAJA RAM

... Respondent(s)

ORDER

1 Leave granted.

2 The appellant has questioned the judgment and final order dated 21st July, 2006 passed by the Allahabad High Court in Special Appeal No.167 of 2005, which was directed against the order of the learned Single Judge in Civil Misc. Writ Petition No.25150 of 2004, filed by the respondent herein.

3 The respondent, Raja Ram, is the son of one Nanku Ram, who was working as Handling labourer in the depot of the Food Corporation of India, Agra Cantonment. On 16th June, 1999, he applied to the Senior Regional Manager, Food Corporation of India, Regional office, Lucknow, for permission to retire on medical

grounds and also asking that his son, the respondent herein, be allowed to work in his place, as there was no other person, other than him, to look after the family in the light of the assurance given by him that he would take care of the applicant worker after his retirement. The said application was supported by an affidavit, wherein in paragraph 3, the said Nanku Ram indicated as follows:

“.....(3)That the elder son of the deponent namely Raja Ram, son of Nanku Ram is married and he lives separately from my family and me and he has nothing to do with my family and me, rather he looks after his own family only and now I do not have any relation with him now.”

4 Apart from the said paragraph, in paragraph 4, the said Nankoo Ram has also gone on to indicate that his wife had died earlier and his daughter was already married and that he had no other heir and hence, he wanted the respondent herein to be taken in service in his place since he would take care of the applicant and his family, if taken into service in his place. The said prayer made by the late father of the respondent was accepted partly on 24th July, 2000, when by an Office Order, his prayer for being allowed to retire from service was accepted and he was relieved from the service of the appellant on 25th July, 2000. However, as far as the second part of his prayer for appointment of his son in his place on compassionate grounds is concerned, the same was rejected on 2nd September, 2002.

5 The respondent filed the writ petition indicated hereinbefore, against the said order and the same came to be allowed by the learned Single Judge by his judgment and order dated 14th December, 2004, with a direction to the appellant to appoint the respondent as Handling Labourer forthwith, without any delay. The said order of the learned Single Judge was taken in appeal by the appellant before the Division Bench in the Special Appeal referred to hereinabove and the same was dismissed on 21st July, 2006 by the Division Bench simply by agreeing with the reasoning given by the learned Single Judge.

6 The present appeal has been filed against the said judgment and orders of the learned Single Judge, as well as the Division Bench.

7 Apart from the application and the affidavit in support thereof, the learned counsel for the appellant has also shown us the relevant Circulars containing the policy of the appellant regarding appointments to be made on compassionate grounds. In fact, it is the Circular dated 3rd July, 1996, which is applicable in the facts of this case since it relates to voluntary retirement and the extension of the benefit of compassionate appointment to a dependent without being sponsored by the Employment Exchange in respect of departmental workers, who were being allowed to retire voluntarily on medical grounds.

8 It has been emphasised that the policy, as was originally promulgated on 2nd February, 1977, provided that a dependent, being a son, daughter, widow who had not re-married, and even a close relative, who gives an assurance to look after the family and whose family is left in indigent circumstances needing immediate assistance, there being no other earning member in the family, would be given appointment without following the formalities of being sponsored by the Employment Exchange, subject to the availability of the vacancy, and further subject to the fact that he or she is duly qualified for the post.

9 It was submitted in the instant case, having regard to the submissions made in paragraph 3 of the affidavit affirmed by Nankoo Ram, the criteria as indicated hereinabove, were not fulfilled, inasmuch as, the respondent was not living with the workman concerned and he was neither dependent on him. Apart from the above, it was also indicated in the said paragraph that he was living separately with his wife and children and he was looking after them. The only reason for asking that he be appointed is the assurance given that in case he was given appointment, he would look after the applicant worker, who was retiring on medical grounds.

10 On behalf of the respondent, it was submitted that the essence of compassionate appointments was whether the family was left in indigent circumstances needing immediate assistance, and there was nothing on record to

indicate that they were not, and in such circumstances, the circular had been correctly interpreted by the learned Single Judge and he had very rightly directed that appointment be given to the respondent on compassionate grounds.

11 Learned counsel also relied on a decision of this Court in Food Corporation of India & Anr. Vs. Ram Kesh Yadav & Anr., [2007(9)SCC 531], where in a similar situation, this Court had directed that appointment be given on account of the fact that the workman had expressed his desire to go on retirement on medical grounds, if his son would be provided an employment in his place.

12 This Court held that the offer being conditional, it was not open to the Food Corporation of India to accept one part of the offer and to reject the other.

13 Having considered the submissions made on behalf of the respective parties, we are unable to sustain the order passed by the Division Bench, which endorses the order of the learned Single Judge, on the ground that the family of the concerned worker, namely, his wife, had predeceased him and his daughter was married and was no longer dependant on him. Furthermore, the son, who is the respondent herein, was living separately and the affidavit affirmed by the worker indicates that he was living separately with his nuclear family and looking after them. Furthermore, the workman having died on 17th February, 2001, while his

application was being processed, the necessity of such appointment ceased to exist after his death as there was no other family member available who was dependant on him. The decision cited by learned counsel in Food Corporation of India Vs. Ram Kesh Yadav (supra) is distinguishable on facts since the workers' retirement was not conditional upon appointment of his son Raja Ram, the respondent herein.

14 Appointment on compassionate grounds in deviation from the normal rules of recruitment was conceived with the object of providing immediate financial relief to the dependants of a person who dies during his employment. It was intended to be a beneficial measure and not a means of obtaining employment as a matter of course by avoiding the rules of recruitment applicable to others. In this case, the very reason for giving such employment did not exist when the learned Single Judge made his order on 14/12/2004. In fact, the learned Single Judge did not even consider this aspect of the matter despite recording the fact that the respondent's father had died on 17th February, 2001. Even the Division Bench which dismissed the Special Appeal filed by the Food Corporation of India did not consider whether the reason for making an appointment on compassionate grounds actually existed.

15 In such circumstances, we allow the appeal and set aside the orders

passed by the Division Bench and the learned Single Judge, without any order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(CYRIAC JOSEPH)

New Delhi,
April 17, 2009.

