

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3182 OF 2014
(Arising out of Special Leave Petition (Civil) No.4391 of 2014)

INDIAN RARE EARTH LTD. & ANR. ... APPELLANTS

VERSUS

JAYABINDU K.V. ... RESPONDENT

WITH

CIVIL APPEAL NO. 3185 OF 2014
(Arising out of Special Leave Petition (Civil) No. 4761 of 2014)

CIVIL APPEAL NO. 3186 OF 2014
(Arising out of Special Leave Petition (Civil) No. 4768 of 2014)

O R D E R

Leave granted.

Learned counsel for the appellants has very fairly made a statement to this Court, that the appellants would consider as eligible the respondents for compassionate appointment, and shall accordingly, determine the claim of the respondents for such appointments on merits. In the above view of the matter, the impugned order calls for no interference.

Despite the above, the observations recorded by the High Court in para 6 of the impugned order is being extracted as hereunder:-

"Now, the question is whether they are entitled to compassionate appointment as directed by the learned Single Judge? If we look at the factual situation right from the date of submission of their application till date, we note that the policy came to be changed from time to time so far as time limit is concerned. There was no time limit at the time

of submission of their applications. In between, three years time limit came in the way of writ petitioners securing any compassionate appointment, though other respondents were fortunate enough to secure compassionate appointments on account of vacancies arising within three years immediately after the death of the employee. Whatever be the reason, the writ petitioners seem to have been put to disadvantageous position for no fault of anyone, but, on account of circumstances that came in their way from time to time. The fact remains, as on today, there is no restriction of three years time limit to consider their application, but, meanwhile they are in service as casual employees. They are continuing as casual employees for more than 10 years in some cases. So far as consideration of the cases of the writ petitioners for compassionate appointment, it is settled that their cases have to be considered as per the scheme available as on the date of submission of applications. In view of the fact that the present scheme also is almost similar to such scheme which was applicable at the time of submission of their applications, we find no good ground to interfere with the judgment of the learned Single Judge."

Insofar as the rules applicable for compassionate appointment are concerned, the applicability thereof has been determined by this Court in State Bank of India and Another v. Raj Kumar, (2010) 11 SCC 661, wherein this Court has held as under:-

"Obviously, therefore, there can be no immediate or automatic appointment merely on an application. Several circumstances having a bearing on eligibility, and financial condition, up to the date of consideration may have to be taken into account. As none of the applicants under the scheme has a vested right, the scheme that is in force when the application is actually considered, and not the scheme that was in force earlier when the application was made, will be applicable."

In view of the above, the legal position expressed in para 6 of the impugned order needs to be set aside and is accordingly set aside in terms of the legal position declared by this Court in Raj Kumar's case (supra).

The appeals stand disposed of in the above terms.

....., J.
[JAGDISH SINGH KHEHAR]

....., J.
[M.Y. EQBAL]

ITEM NO.53

COURT NO.14

SECTION XIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).4391/2014

(From the judgement and order dated 04/09/2013 in WP No.12262/2010,WA No.947/2012 of The HIGH COURT OF KERALA AT ERNAKULAM)

INDIAN RARE EARTH LTD. & ANR.
VERSUS

Petitioner(s)

JAYABINDU K.V.

Respondent(s)

(With prayer for interim relief and office report)

WITH SLP(C) NO. 4761 of 2014

(With prayer for interim relief and office report)

SLP(C) NO. 4768 of 2014
(With prayer for interim relief and office report)

Date: 28/02/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE M.Y. EQBAL

For Petitioner(s)

Mr. V. Giri, Sr. Adv.
Mr. Ritin Rai, Adv.
Mr. Siddhartha Jha, Adv.
Mr. V.K. Monga, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeals stand disposed of in terms of the signed order.

[Nidhi Ahuja]
Court Master

[Phoolan Wati Arora]
Assistant Registrar

[Signed order is placed on the file.]