

STATE OF HARYANA AND ORS.

A

v.

SURJEET SINGH

JULY 9, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

B

*Service Law :*

*Compassionate appointment—Instructions issued by Government of Haryana dated February 22, 1991 read with instructions dated August 28, 1992—Applicability of.*

C

*Driver—Medical unfitness—Deficiency in sight—Compulsory retirement—Request for appointment of son as Clerk on compassionate—Rejection of—Writ—High Court held that invalidity in service attracts instructions for compassionate appointment and consequently employee entitled to have his son appointed—Appeal by State—Held instructions apply only when compulsorily retired employee was suffering from blindness or became Nakara in service—In this case employee having deficiency in sight was not totally invalid or blind—Held view taken by High Court was not correct—But in view of the fact that employee's son had already been appointed interference with High Court order held not called for.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9509 of 1996.

From the Judgment and Order dated 29.8.95 of the Punjab & Haryana High Court in C.W.P. No. 4088 of 1995.

F

Prem Malhotra for the Appellants.

Uma Datta for the Respondent.

The following Order of the Court was delivered :

G

Leave granted.

We have heard learned counsel on both sides.

The respondent-Surjeet Singh was a driver of a heavy vehicle. He

H

- A was appointed on December 24, 1986. The Medical Board on his examination by proceedings dated September 3, 1993 found that he was suffering from Melineal Inter Cr. fractum resue/lant by 5.2 un-c. Consequently, the Medical Board opined that he could not perform the duties of a heavy vehicle driver due to the above disability. Pursuant thereto, he was retired from service. He made an application for appointment of his son as a clerk on compassionate grounds on the basis of the instructions issued by the Government. The Government on consideration of his representation found that the respondent was neither blind nor nakara (totally invalid) on the date of his retirement and that, therefore, he is not entitled for appointment of his son on compassionate grounds as a clerk. Feeling aggrieved, he filed C.W.P. No. 4088/95 in the High Court. The Division Bench of the Punjab & Haryana High Court by order dated August 29, 1995 held that the declaration of unfitness on medical grounds, in other words, his invalidity in the service, attracts the instructions issued by the Government dated August 28, 1992 and consequently he is entitled to have his son appointed on compassionate grounds. Calling that order in question, this appeal has been filed by special leave.

The only question is whether the instructions of the Government dated February 22, 1991 read with instructions dated August 28, 1992 enable an employee having become blind or nakara during service and compulsory retired from service on account thereof, to be entitled for appointment of his son on compassionate grounds. It is seen that the instructions do clearly indicate that an employee who was compulsory retired from service should suffer from blindness or nakara while in service and the compulsory retirement should follow due to the above factors.

F In this case, it is seen that he was neither blind nor nakara on the date of the compulsory retirement. The doctors found him that he was having deficiency in sight. Consequently, he could not drive the heavy vehicle. It would not mean that he was totally blind. Due to disability in sight, which is a pre-condition for safe driving of a heavy vehicle, he was retired from service and it would not mean that he was totally invalid or blind. But we are informed that pursuant to the directions issued by the High Court, the son of the respondent has been appointed and he is in service.

H Under these circumstances, though we find that the view taken by

the High Court is not correct in law, we decline to interfere with the order. A  
However, the order of the High Court is not to be taken to be approved  
by this Court. On the other hand, we specifically hold that the view of the  
High Court is not correct in law. However, we decline to interfere with the  
subsequent order passed by the Appellant-State pursuant to the directions  
issued by the High Court. B

The appeal is accordingly disposed of. No costs.

T.N.A.

Appeal disposed of.