

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-17892-1996 (O&M)
Reserved on 08.04.2015
Date of decision : 26.05.2015

Smt. Krishna and others

...Petitioners

Versus

Municipal Committee, Charkhi Dadri and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mani Ram Verma Advocate for the petitioners.

Mr. Ashok Singh Chaudhary, Advocate,
for respondent No.1.

JITENDRA CHAUHAN, J.

The petitioner no. 1 is the widow, and the petitioners no.2, 3 and 4, are the minor sons, whereas, the petitioner no. 5 is the eldest son of Late Sh. Dhoop Singh, respectively, who have filed the present writ petition under Article 226 of the Constitution of India for the grant of family pension to petitioners no.1 to 4 and to issue directions to the respondents to consider the claim of petitioner no. 5 for compassionate appointment.

It is contended that Sh. Dhoop Singh was appointed as Beldar on daily wage basis in the Municipal Committee, Charkhi Dadri, District Bhiwani on 05.04.1983. He was also then appointed as a

Chowkidar in 1984 and confirmed as such but was reverted back to work as Beldar on account of not possessing essential educational qualification. Thereafter, his services were illegally terminated on 01.04.1987 by the respondents without any notice and payment of the retrenchment compensation in violation of Section 25-F of the Industrial Disputes Act, 1947. However, late Sh. Dhoop Singh was reinstated in the service, with continuity of service with back wages from 11.01.1990 onwards vide award dated 22.05.92 passed by the Industrial Tribunal.

Aggrieved against the award, the respondents filed writ petition, which was dismissed on 17.06.92.

It is contended that Late Sh. Dhoop Singh died while in service as Beldar on 13.06.93 and none of his dependants was considered eligible for appointment on compassionate ground as the condition of being a regular employee of the respondent Municipal Committee was not fulfilled. The petitioners had filed various representations to the respondents for regularisation of Late Sh. Dhoop Singh in terms of Govt. policy decision dated 06.04.90 (Annexure P-1) and 27.05.93 (Annexure P-2).

The learned counsel for the respondent no. 1 on the other hand contends that the services of Late Sh. Dhoop Singh couldn't be regularised on account of his name being incorporated in 'Baste Bi'

(Bad character) list maintained by Police Station, Charakhi Dadri and being a bad character, the claim of petitioner no. 5 for appointment on compassionate ground after the death of Late Sh. Dhoop Singh was rejected by the Deputy Commissioner vide letter dated 09.09.93. The policy dated 06.04.90 (Annexure P-1) under which the petitioners claim regularisation of Late Sh. Dhoop Singh is not applicable in the instant case as it provides that the daily rated employees who had completed 10 years or more of service on 30.09.88 shall be regularised. The other policy dated 27.05.93 (Annexure P-2) is also not applicable to the employees of Municipal Committees of Haryana Government as they are governed by Haryana Municipal Service (Integration, Recruitment and Conditions of Service) Rules, 1982 of which Rule 4 states that no person shall be appointed by direct recruitment unless a requisite character certificate is produced.

Heard.

Before proceeding further, it is considered appropriate to reproduce the relevant portion of the Police dated 27.05.1993 (Annexure P-2), with regard to Regularization of Work-Charged/Casual/Daily rated employees, which reads as under:-

“Casual/Daily Rated Employees

The Casual and Daily rated employees who have completed 5 year's service on 31st March, 1993, shall

be regularised. On regularisation, they shall be put in the time scale of pay applicable to the lowest Group 'D' cadre in the Government and they would be entitled to all other allowances and benefits available to regular Govt. servants of the corresponding cadre.”

The perusal of Haryana Government above provision reveals that the daily rated employees who had completed 5 years of service on 31st March, 1993 shall be regularised and henceforth, would be entitled to all consequential benefits. The said policy has also been adopted by the Local Self Departments, Haryana Government vide endorsement no. 36093-191 dated 01.09.93. In the instant case, Late Sh. Dhoop Singh was appointed as Beldar, Municipal Committee, Charkhi Dadri, District Bhiwani on 05.04.1983 and he died on 13.06.93. In the meantime, the Industrial Tribunal had ordered for his reinstatement vide award dated 22.05.92 with continuity of service and full back wages from 11.01.90 onwards, when his services were arbitrarily terminated by the respondents on 01.04.87. It can be inferred from the record that the Late Sh. Dhoop Singh served in the service of respondent Municipal Committee for more than 5 years as on 31.03.1993 and is thereby entitled for regularisation and all consequential benefits as per policy dated 27.03.1993 (Annexure P-2).

Moreover, the petitioners have also placed on record his certificate of good character issued by the Sarpanch, Gram Panchayat, Charkhi Dadri duly verified by the Police Station, Charkhi Dadri (Annexure P-7).

As far as the claim of petitioner no. 5, for appointment on compassionate grounds is concerned, the request for the same was rejected on 09.09.1993, by the Deputy Commissioner, whereas, the instant petition has been filed after a delay of around 3 ½ years. It has been held in *Haryana State Electricity Board Vs. Naresh Tanwar and another, 1996(2) SCT 778*, that compassionate appointment is intended to provide immediate relief to the family on the sudden death of earning member thereof, and is not a vested right. It cannot be claimed at any time in future. Compassionate appointment cannot be made after a lapse of long time, when the crisis of family is over. Moreover, in *Umesh Kumar Nagpal Vs. State of Haryana and others, 1994(3) SCT 174*, it has also been held that appointments in public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. The same view has been repeated in *Smt. Sudha Sharma Vs. Oriental Bank of Commerce and another, 2007(2) Service Cases Today 445* and *Sunil Kumar Vs. UHBVN Ltd. and others, 20082(2) Service Cases Today 821*. Thus, the claim of petitioner No.5 for compassionate appointment is hereby rejected.

However, Late Sh. Dhoop Singh is held entitled for regularisation in service with consequential benefits and the petitioners are entitled for family pension as per rules.

Disposed of.

26.05.2015
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(JITENDRA CHAUHAN)
JUDGE

Whether to be referred to Reporter : Yes