

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

CWP No.11868 of 2015

Date of Decision: 29.05.2015

Rakesh Kumar

....Petitioner

Versus

The State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. R.A. Yadav, Advocate
for the petitioner.

DAYA CHAUDHARY, J. (ORAL)

Prayer in the present petition is for issuance of a writ in the nature of *mandamus* directing the respondents to decide the representation dated 01.12.2014 (Annexure P-11) as the same is lying pending and no action has been taken thereupon by the respondents so far.

Heard the arguments of learned counsel for the petitioner and have also perused the documents available on the file including representation.

Admittedly, the father of the petitioner, who was working as Primary Head Teacher in the Government Primary School, Mohindergarh, expired on 25.03.1985 while he was on duty. Thereafter, the petitioner was appointed as Clerk as per policy of ex-gratia appointment on 30.12.1985. The petitioner is claiming that keeping in view his qualification, he is entitled to be appointed as an Assistant and in this regard, he has made a representation. The prayer has been made for issuance of direction to the

respondents to decide the representation.

The purpose of *ex-gratia* appointment is to give immediate help to the family of the deceased as the father of the petitioner had died in the year 1985. Subsequently, only on the basis of acquired or improved qualification, it cannot be said that the petitioner has a right to be appointed on a higher post when he has already been appointed on the post of Clerk.

The object of granting compassionate employment is to enable the family to tide over the sudden crises. Such appointment cannot be claimed as a matter of right and moreover, the dependent of the deceased does not automatically becomes entitled for appointment as various facts and circumstances with regard to eligibility and financial condition of the family are to be considered in accordance with the scheme. No doubt, it is a welfare activity carried out by the State Government in view of dire economic and social crises to which the family of the deceased employee in Class C or D is exposed but the request of the dependent family member is to be considered strictly in accordance with the governing scheme. Such application must be made without any undue delay and the same is to be considered within a reasonable period of time.

In the present case, the petitioner was appointed as a Clerk as per policy of *ex-gratia* appointment on 30.12.1985. Now the petitioner is claiming that he is entitled to be appointed as an Assistant by considering his qualification. The father of the petitioner expired on 25.03.1985 while on duty. The application of the petitioner was considered and he was appointed. The purpose is not to appoint by considering the qualification. Moreover, the application was made after an un-explained delay that too after the qualification was improved. As per policy, the *ex-gratia* appointment is to be given immediately to the family member of the deceased employee to come out from the financial crises arising due to

death of earning family member. The petitioner cannot claim higher post as a matter of right only on the basis of his qualification and that too after a long delay of approximately 30 years.

There is no merit in the contentions raised by learned counsel for the petitioner and the petition, being devoid of any merit, is hereby dismissed.

29.05.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE