

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

CWP-20023-2015

Date of Decision: 21.09.2015

Omwati and another

...Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: - Mr. Rajiv Dhawan, Advocate
for the petitioners.

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HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to the respondents to grant suitable compensation to the petitioners in lieu of appointment on compassionate ground on account of the death of Sh. Kushalpal-husband and father respectively of petitioners No.1 and 2.

Sh. Kushal Pal was working as Assistant Lineman in Barwala Division, District Ambala of the respondent-Corporation. He expired on 26.10.1997. Immediately upon his death, the mother of petitioner No.2, submitted an application seeking appointment on compassionate ground for petitioner No.2, being son of the deceased. As petitioner No.2 was a minor at that time (about 17 years) it was requested that a post be kept reserved for him. Once he attained the age of majority and also acquired 10+2 qualification, the mother of petitioner No.2 again

submitted a representation requesting for compassionate appointment for him. Respondent No.2 rejected the application vide memo dated 11.01.1999 stating that there was no provision under the *ex gratia* Scheme to keep a post reserved for a minor son. Instead petitioner No. 1 was advised to seek employment for herself. She again submitted representation stating that her mental and physical condition did not permit her to take up a job and that her son petitioner No.2 be adjusted as he had by then become a major.

When repeated representations seeking compassionate appointment for petitioner No.2 did not receive any positive response, the petitioners filed CWP No.16536 of 2005 praying for quashing the order dated 11.01.1999 and also seeking directions to grant appointment to petitioner No.2 on compassionate basis. It was pleaded therein that number of similarly situated persons where the death of earning family member had taken place after the death of earning member of the petitioners, have been granted compassionate appointment, which had been wrongly denied to the petitioners. This petition was dismissed by a Division Bench on 30.11.2006 on the ground of delay and laches. It was observed that the application of petitioner No.1 seeking ex-gratia employment for her son (petitioner No.2) was declined on 11.01.1999, which order had been challenged in the year 2005 after a gap of about six years.

It was observed that the silence of the petitioners for a period of

about six years was indicative of the fact that theirs was not a case where the family of the deceased required to be saved from penury.

Now, the petitioners have filed the present petition praying for the directions that they be given suitable compensation in lieu of compassionate appointment.

Reliance has been placed on the 'Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2003'. It is contended that in terms of these Rules an option has been given to the family of the deceased employees to either opt for ex-gratia appointment on compassionate ground or seek ex-gratia financial assistance to the family of the deceased.

I have gone through the aforesaid Rules. As per Rule 3(b) compassionate financial assistance of Rs. 2.5 lacs under these Rules is to be given to the completely dependent family members of the indigent family of the deceased. Indigent family has been defined as "where the family of the deceased is completely dependent on him/her and deserves immediate assistance for relief from destitution and whose income does not exceed Rs.6,000/- per month including family pension.

In my opinion these Rules do not in any way help the petitioners. The object of these Rules as of all other compassionate assistance policies is to provide immediate succour to the completely dependent family on the untimely

death of the bread earner. The bread earner in the petitioner's case had died in the year 1997. The writ petition filed by the petitioners seeking compassionate appointment was dismissed in the year 2006 on the ground of delay and laches. They did not make an alternative prayer for compassionate financial assistance in that petition. No cause survives to the petitioner to seek ex-gratia financial assistance at this stage after a lapse of about 18 years of the death of the bread winner.

Dismissed.

(HARINDER SINGH SIDHU)
JUDGE

21.09.2015
Atul