

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

CWP No.3803 of 2012

Date of decision: 09.07.2015.

Sanjiv Kumar and another

..Petitioners

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Rakesh Nagpal, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. D.A.G., Haryana
for the respondents – State.

Daya Chaudhary, J. (Oral)

The prayer made in the present writ petition is for issuance of a writ in the nature of mandamus directing the respondents to give employment to the petitioner on a suitable post in view of the policy of State Government or to grant financial assistance to the petitioners in lieu thereof.

Learned counsel for the petitioners submits that the father of petitioner No.1 and husband of petitioner No.2 was working as Constable with the Police Department. He expired on 11.03.1999 while he was in service. After his death, petitioner No.2 requested the

respondent-department to keep one post reserved for his son i.e.,petitioner No.1, who was minor at that time as his date of birth is 06.06.1984. Learned counsel further submits that the case of the petitioners was recommended by the respondent on 05.05.2002 after the attaining of majority by petitioner No.1. On 25.03.2003, petitioner No.2 was asked to submit an application regarding grant of ex-gratia assistance and an option was also given. Then on 27.06.2011, respondent No.3 wrote a letter to petitioner No.2 and asked her to give an affidavit and the same was also submitted by her. Learned counsel also submits that inspite of completing all the formalities and even after submission of an affidavit as asked for by the Superintendent of Police, Yamuna Nagar, no action has been taken so far.

Learned State counsel submits that the claim of the petitioners has already been rejected by Director General of Police on 29.11.2004 and the petitioners cannot claim compassionate appointment only on the basis of letter written by Superintendent of Police, which is a general order and the same is not applicable to the case of the petitioners. Learned State counsel further submits that the object of the Policy is to assist the family of the deceased employee at a particular time and that too in case, the bread earner of the family has died while in service but in the present case much time has passed and moreover, the claim has already been rejected in the year 2004. All other benefits have been released to the petitioners and the

same has been accepted by them. The petitioners have not challenged the order of rejection passed in the year 2004 and now this writ petition is liable to be dismissed only on the ground that their claim has already been dismissed.

Heard arguments of learned counsel for the petitioners as well as learned State counsel and have also perused the documents available on the file.

Admittedly, the claim of the petitioners was rejected in the year 2004 by the Director General of Police wherein it was specifically mentioned that their claim is time barred but the said order has not been challenged by the petitioners. Subsequently, on the basis of letter dated 27.06.2011 (Annexure P-5) written by Superintendent of Police, Yamuna Nagar, which is general in nature, an affidavit (Annexure P-6) has been submitted by petitioner No.2.

On perusal of letter dated 27.06.2011, it is clear that the persons, who could not apply earlier, have been asked to apply for the same. In the present case, the request was made well in time but the same was rejected. The Court is unable to understand that in case, the respondent-State has considered the claim of those persons, who could not apply well in time then why the claim of the petitioners was rejected. The letter dated 27.06.2011 was addressed to petitioner No.2 and it cannot be said to be a general letter. On the basis of that letter, petitioner No.2 has submitted her affidavit but thereafter nothing has been done. In case, the petitioners were not entitled to the relief

of ex-gratia appointment, then at least some order should have been passed. In case, the other similarly situated persons, who were dependents of the deceased employees have been granted benefit even after delay as in the case of the petitioners, then the petitioners are also entitled to the same relief in the similar manner.

Accordingly, the present writ petition is disposed of with a direction to respondents No.2 and 3 to consider the case of the petitioners in view of letter dated 27.06.2011 (Annexure P-5) within a period of two months from the date of receipt of certified copy of this order and in case, the petitioners are held entitled to the financial assistance in view of amended policy applicable to the deceased employees, the same be considered.

It is also clarified that in case, the financial assistance has been released to the dependents of other deceased employees even after delay then the petitioners are also entitled for the same. In case, the petitioners are found to be entitled for the relief sought, the same be released to them within a period of two months thereafter.

Disposed of accordingly.

09.07.2015
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(DAYA CHAUDHARY)
JUDGE