

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 2521 of 2013

DATE OF DECISION: 24.03.2015

Parveen Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mrs. Anu Chatrath Kapoor, Senior Advocate with
Ms. Harmanpreet Kaur, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. D. A.G., Haryana.

DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ of mandamus directing the respondents to consider the claim of the petitioner for appointment on the post of Clerk from the date he was appointed as Daftri (Class-IV) on compassionate ground.

Briefly, the facts of the case are that the father of the petitioner, namely, Sh. Bhagat Singh was working as Constable in Haryana Police Department and he expired on 27.8.1997. The mother of the petitioner submitted an application to Superintendent of Police, Karnal for appointment of her son on the post of Clerk on compassionate ground as per policy of State Government. The petitioner was offered appointment

on the post of Cook, Mali, Mochi, Nai Dhobhi but ultimately he offered himself for the post of Daftri and accordingly he was appointed on the post of Daftri on 10.6.2001 and joined as such on 12.7.2001.

Now the present petition has been filed by the petitioner to consider his claim for appointment on the post of Clerk from the date he was appointed as Daftri (Class-IV) on compassionate grounds, keeping in view his qualification.

Learned senior counsel for the petitioner submits that the deceased-father of the petitioner was even not paid the benefit of second ACP and subsequently on moving of an application by the mother of the petitioner, the pay of the deceased was refixed vide letter dated 6.3.2010. Learned senior counsel further submits that it was the inaction on the part of respondent-Department because of which the petitioner was appointed as Daftri, whereas, as per the salary last drawn by the deceased-father, he was to be appointed as Clerk. Learned senior counsel also contends that some of the persons who were dependent upon the salary of the deceased were offered lower post and subsequently they were appointed on higher post. It is also the argument of learned senior counsel that in case of one Anita Devi, wife of late Constable Subhash Chander, who was having eight years of service and was not granted ACP, was appointed on the post of Clerk. Similarly, Kanta Devi-wife of late Constable Suresh Kumar was appointed on the post of Peon but subsequently she was also appointed on the post of Constable.

Learned State counsel submits that the petitioner accepted the offer voluntarily and he joined on the post of Daftri on 12.7.2001 and now the present petition has been filed after a long delay, whereas, he is estopped by his own work and conduct to file the petition. The object of compassionate appointment is to enable the family to overcome the

sudden crises that has arisen due to death of sole bread winner. The petitioner cannot claim parity with aforesaid persons as those persons did not join on the post offered to them, whereas, present petitioner joined on the post voluntarily. Learned State counsel further submits that father of petitioner was placed under suspension and because of that reason his increments were withheld and he was not granted benefit of ACP. The benefit of ACP was granted subsequently on moving of an application by mother of the petitioner. As per policy, the petitioner was rightly appointed on the post lower to the post occupied by his father. Learned counsel also submits that once the case has been decided, the same cannot be reopened after a long delay and the present petition is liable to be dismissed on this ground alone.

Heard the arguments advanced by learned counsel for the petitioner as well as learned State counsel and have also perused impugned order and other documents including policy regarding appointment on compassionate ground framed by the State.

Admittedly, father of the petitioner was working as Constable and he died on 27.8.1997 while he was in service. On moving of an application by mother of the petitioner, he was appointed on the post of Daftri as he was not willing to work on the post of Cook, Mali, Mochi, Nai etc. The only ground which has been raised by learned senior counsel for the petitioner is that the petitioner was entitled to be appointed on the post of Clerk as the case of father of the petitioner for grant of second ACP was not considered and his pay was not refixed.

The object of granting compassionate appointment is to enable the family to overcome the sudden crises that has arisen due to death of sole bread earner of the family. Mere death of an employee in harness does not entitle the family to be appointed on any post. Not only the

financial condition of the family of the deceased is to be considered but it is also to be seen that whether the dependent of the deceased- employee can be adjusted on the post, which is lower to the post occupied by the deceased-employee. In the present case, petitioner accepted the offer voluntarily and joined on the post of Daftri on 12.7.2001. This petition has been filed only on the ground that pay has been refixed subsequently and the petitioner was entitled to be appointed on the post of Clerk. The persons who were appointed under similar circumstances cannot be compared with the petitioner as those persons did not join their duties, whereas, the present petitioner not only accepted the employment but also joined on his post. As per policy of the State Government and as per "Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2006", there is no provision for ex-gratia appointment of the dependents of the deceased Government employees. Once the option has been exercised by the dependent, the same cannot be challenged unless certain reasons are there.

In view of the facts as mentioned above, there is no merit in the contentions raised by learned senior counsel for the petitioner and petition being devoid of any merit is hereby dismissed.

March 24, 2015
pooja

(DAYA CHAUDHARY)
JUDGE