

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

Civil Writ Petition No.556 of 2012

Date of Decision: May 26, 2015

Radhey Sham

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

**Present: Mr.Virender Singh Punia, Advocate,
for the petitioner.**

**Mr.Keshav Gupta, AAG, Haryana,
for the State.**

**Mr.Partap Singh, Advocate,
for respondent Nos.2 to 5.**

AMIT RAWAL, J. (Oral)

The challenge in the present writ petition is to the order dated 6.12.2011 (Annexure P-9), whereby the case of the petitioner for seeking compassionate employment has been rejected on the premise that the petitioner has not availed the benefit of compassionate financial assistance of ₹2.50 lacs upto 15.9.2011.

Mr.Virender Singh Punia, learned counsel appearing on behalf of the petitioner submits that the father of the petitioner, while in harness, died on 21.5.2004 and at that time the policy of 2003 vis-a-vis the grant of

ex-gratia compassionate/employment was in vogue and the petitioner attained the majority on 18.8.2006 and thereafter submitted an application for being appointed on compassionate ground. He further submits (as per the information obtained under Right to Information Act) that one Gurdeep Singh, whose father had died subsequent to the death of father of the petitioner, had been appointed on 7.4.2005 vide Annexure P-8 and case of the petitioner is covered as per the Full Bench judgment in **Krishna Kumari Versus State of Haryana and others, 2012(2) S.C.T. 736**, wherein it has been held that the person should be entitled to the benefit as per the policy which was in vogue at the time of the death of the employee.

Mr.Partap Singh, learned counsel appearing on behalf of respondent Nos.2 to 5 submits that a 5% quota was kept reserved for filling up the post on compassionate ground and, therefore, Gurdeep Singh, who might have been major at the relevant time, was given appointment and, thus, the petitioner cannot allege discrimination. He further submits that the respondents had offered *ex-gratia* payment to the family of the deceased, but they refused to accept the same and, therefore, the case for *ex-gratia* employment has rightly been rejected vide impugned order.

I have heard the learned counsel for the parties and appraised the paper book.

As per the dictum laid down by the Full Bench in **Krishna Kumari's case** (supra), it is now a settled law that the wards/L.Rs of the deceased would be entitled to compassionate employment or *ex-gratia* payment as per the policy which was in vogue at the time of the death. Since the father of the petitioner died on 21.5.2004 and at that time policy of

2003 was in vogue, thus, as per the policy, person is entitled to either *ex-gratia* payment or employment. Since the petitioner had attained the majority in the year 2006 and, therefore, within three years he would have been eligible to submit application, which was though submitted, but yet his application has not been decided nor has been given compassionate employment. In essence, the family of the deceased did not opt for *ex-gratia* payment.

In view of what has been observed above, the impugned order dated 6.12.2011 (Annexure P-9) is set-aside. The writ petition is allowed and the respondents are directed to give compassionate employment to the petitioner within a period of three months from the date of receipt of certified copy of this order.

May 26, 2015
ramesh

(AMIT RAWAL)
JUDGE