

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 27039 of 2015 (O&M)

Date of decision : 23.12.2015

Rupinder Singh

.....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present:- Mr. Vikas Chatrath, Advocate,
for the petitioner.

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 25.10.2013 of the revisional authority upholding order dated 01.07.2010 whereby claim of the petitioner for appointment on the post of Peon on compassionate grounds was rejected.

Facts, as revealed in the writ petition, are that petitioner's father who was working on regular basis on the post of Peon (Sewadar) with Market Committee, Abohar i.e. respondent No. 3 died in harness on 02.09.2000. It was recommended that petitioner be appointed on the post of Clerk vide resolution dated 24.12.2001. He was offered appointment for the post of Clerk on 26.12.2002.

Petitioner's services were, however, terminated vide order dated 26.04.2004. Said order has not been placed on record, neither

are the details thereof forthcoming. It is mentioned that on verification of his certificate of 10+2, it was found to be fake. Vide report dated 21.04.2003 of Deputy Commissioner, Ferozepur, petitioner was found to be a previous convict in separate cases registered under Excise Act i.e. F.I.R. No. 162 dated 09.10.1996 as well as F.I.R. No. 91 dated 06.09.1996. It is submitted that petitioner was released on probation vide judgment dated 22.10.2001 in the first case i.e. F.I.R. No. 162 dated 09.10.1996 and in the second case he was let off with a fine of ₹100/- on 18.02.1997. It is informed that there was no challenge to order dated 26.04.2004 vide which petitioner's services were terminated.

Thereafter, petitioner vide representation dated 28.04.2010 requested respondent-department to consider his case for appointment to the post of Peon (Sewadar) on compassionate basis due to death of his father on 02.09.2000. Petitioner's request was rejected vide impugned order dated 01.07.2010 (Annexure P-7). Revision petition preferred by him was also dismissed vide impugned order dated 25.10.2013.

Present writ petition has been preferred by the petitioner claiming the impugned orders to be illegal and arbitrary. Petitioner stakes his claim for appointment on compassionate basis to the post of Peon.

Learned counsel for the petitioner submits that there is no controversy about the petitioner fulfilling requisite qualification of Matriculation and having been let off on probation and a mere fine in the second case, he is entitled to be considered for appointment to

the post of Peon rather than that of a Clerk. It is vehemently argued that criminal cases against the petitioner were under the Excise Act and not involving moral turpitude, therefore, his conviction should not be treated as a roadblock for his entry or retention in Government Service. Reference is made to the decision of the Hon'ble Supreme Court in ***Pawan Kumar Versus State of Haryana 1996 (3) SCT 339***.

Having heard learned counsel for the petitioner, I do not find any ground whatsoever to interfere in this case. There is no illegality or infirmity in the impugned orders neither is there any ground to direct the respondents to consider and appoint the petitioner as Peon (Sewadar) w.e.f. the date of recommendation made by respondent No. 3 i.e. 18.05.2010. A vital fact which cannot be lost sight of is that petitioner's father passed away on 02.09.2000. Petitioner was appointed on the post of Clerk in December 2002. His services were terminated on 26.04.2004 as he had submitted fake certificate in respect of his educational qualification of 10+2 and he stood convicted in two criminal cases as mentioned above. It is not disputed that termination order dated 26.04.2004 (which is not on record) was never challenged or impugned by the petitioner. Reference to the judgment of the Hon'ble Supreme Court in *Pawan Kumar's* case (supra) is, thus, of no avail to the petitioner. Request for appointment to the post of Peon on compassionate basis was raised after nearly 10 years of the death of petitioner's father i.e. on 28.04.2010. Period of fifteen (15) years has elapsed since the death of petitioner's father.

It is a settled position of law that appointment on

compassionate grounds is not a vested right nor an alternate mode of recruitment. It is a measure adopted by an employer to help family of a deceased employee tide over an immediate crisis, if any, which may arise on account of death of the employee. It has been observed by the Hon'ble Supreme Court in **Umesh Kumar Nagpal v. State of Haryana, 1994(3) SCT 174** as under:-

“The whole object of grant of compassionate employment is, thus to enable the family to tide over the sudden crises. The object is not to give member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provisions of employment, the family will not be able to meet the crisis that job is to be offered to the eligible member of the family.

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The object being to enable the family to get over the financial crisis which it faces at the time of death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

I find no justification whatsoever for directing the respondents to consider and appoint the petitioner to the post of Peon in the peculiar facts and circumstances of this case.

Writ petition is, consequently, dismissed.

December 23, 2015
rts

(Lisa Gill)
Judge