

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

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Civil Writ Petition No.4473 of 2015

Date of Decision:13.03.2015

Balwinder Singh

....petitioner

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Ramesh Sharma, Advocate
for the petitioner

ARUN PALLI, J.(ORAL):-

A writ in the nature of certiorari is prayed for, to quash the order dated 24.06.2014 (Annexure P7), passed by respondent No.1, vide which claim of the petitioner to seek employment on compassionate grounds, has since been declined.

In short, the case set out in the petition is that brother of the petitioner namely Shaminder Singh was employed as a Constable and was posted at Police Post Sugar Mill, Zira, when in a scuffle on 03.07.1993, due to a fire arm injury, he lost his life. A representation was made by father of the petitioner i.e.Mahla Singh, on 03.09.1993 to the Inspector General of Police, Punjab, Chandigarh, i.e. respondent No.3, for appointment of the petitioner on compassionate grounds. However, as the petitioner was still a minor, father of the petitioner was assured that the petitioner would be appointed on attaining the age of majority. As on 22.02.1999, petitioner became major, his father again represented, vide

representation dated 22.02.1999(Annexure P1.) However, the said representation was declined on 05.07.1999. Again, even the petitioner represented to the respondents, in this regard, but once again, vide letter dated 02.11.1999, his claim was rejected. That being so, father of the petitioner approached this Court vide Civil Writ Petition No.19297 of 2001. However, vide a detailed order dated 28.08.2003 (Annexure P2), the same was dismissed by a Division Bench of this Court. As set out in the petition, the petitioner yet again approached the respondents to consider his claim and the Senior Superintendent of Police, Ferozepur, vide letter dated 11.10.2008 (Annexure P3), referred his claim to the Director General of Police, Punjab, Chandigarh, for re-consideration under the scheme for compassionate appointments 2002. However, respondent No.2 i.e. Director General of Police, Punjab, vide letter dated 08.03.2010 (Annexure P5), consigned the application of the petitioner to the office as his claim under the instructions dated 03.07.2008, issued by the government, had already been considered. And also, as the age of the petitioner for appointment as a Constable was more than the prescribed age limit. Since the petitioner made yet another representation to respondent No.2 on 08.03.2013, he, in turn, vide a proposal dated 03.03.2014 (Annexure P6), recommended his claim to respondent No.1, for condoning the delay that had occurred to move an appropriate application in time seeking employment on compassionate grounds. However, respondent No.1, vide order dated 24.06.2014(Annexure P7) declined the same. This is how, the petitioner, is once again, before this Court, and has assailed the

order dated 24.06.2014 (Annexure P7)

I have heard learned counsel for the petitioner and perused the paper book.

On a due and thoughtful consideration of the matter in issue, I am of the considered view that the instant petition is devoid of merit and is thus, liable to be dismissed for the reasons that are being recorded hereinafter.

Concededly, father of the petitioner had approached this Court, vide CWP No.19297 of 2001 and the same was dismissed by a Division Bench of this Court on 28.08.2003 (Annexure P2). A bare reading of the said order reveals that the petitioner Balwinder Singh had attained majority on 18.07.1996 and the claim of the petitioner was rejected by the government in terms of the policy instructions dated 08.08.1996. Since in terms of the said policy instructions, the appointment on compassionate grounds could be either claimed within a period of two years from the date of death of an employee in harness or in case, the dependent of the deceased happened to be a minor at that stage, within a period of six months, after the dependent had become eligible for appointment. As the petitioner turned major on 18.07.1996, and his father had made a representation on 22.09.1999 i.e. after over 3 years of his having attained majority, the claim of the petitioner for appointment on compassionate grounds was held to be clearly beyond the purview of the policy instructions dated 08.08.1996, and therefore rightfully rejected. Further, as in reference to another policy instruction dated 25.08.2000, it was sought to be canvassed that all those, who were similarly situated as

petitioner and could not apply, under the earlier policy instructions, were afforded yet another opportunity to make their claims, it was observed that even the said instructions envisaged that a person could make a fresh request within six months from the date of issuance of the said instructions. But as neither Mahla Singh i.e. father of the petitioner nor even his son i.e. Balwinder Singh ever made a claim even in terms of instructions dated 25.08.2000, it was concluded that the petitioner could not claim any benefit even under the policy instructions dated 25.08.2000. It would be apposite to point out, at this juncture, that the order dated 28.08.2003 (Annexure P2) has attained finality with efflux of time as the same was not assailed any further. That being so, how could the petitioner still re-stake his claim for appointment on compassionate grounds, and justify the maintainability of the instant petition, is yet another question that arises for consideration. Ex facie, after almost five years of dismissal of the petition by this Court, petitioner again approached the respondents. And respondent No.5, forwarded his claim for reconsideration to respondent No.2, vide Annexure P3 dated 11.10.2008. However, vide order dated 08.03.2010 (Annexure P5), respondent No.2 rejected the claim of the petitioner as his claim had already been considered under the government instructions dated 03.07.2008 and, also as the petitioner was overage for appointment as a Constable. Not just that, precisely three years, thereafter, petitioner once again represented on 08.03.2013 and respondent No.2, proposed to respondent No.1, to condone the delay that had occurred in making a timely claim by the petitioner.

However, the said proposal was declined by respondent No.1 vide order dated 24.06.2014 (Annexure P7) and same order reads as thus:

***“In connection with the matter mentioned in the subject, the proposal which has been sent under the reference of the letter has been considered and it has been found that the candidate Balwinder Singh's brother late Constable Shaminder Singh No.2281/Ferozepur had expired on 10.03.1993. The matter regarding recruitment of the candidate as constable was considered and ordered to be filed in this office on 10.03.2005 and 12.06.2006, respectively. The claim regarding appointment on the basis of compassionate grounds was rejected by the Hon'ble High Court Chandigarh in the Civil Writ Petition filed by him as per the instructions. Your proposal is not covered under the instructions, the appropriate authority has taken a decision to reject it.*”**

Learned counsel for the petitioner could not point out as to how the conclusion that had been arrived at by respondent No.1 and extracted above, was either contrary to the position on record or suffered from any material illegality. Once the writ petition preferred by the father of the petitioner seeking employment on compassionate grounds for the petitioner was dismissed by a Division Bench of this Court, this petition on the same cause of action is not maintainable.

Concededly, the matter in issue, in the instant petition, was directly and substantially in issue, even in the earlier writ petition. Apparently, no fresh cause of action had accrued to the petitioner. Repeated representations, post decision of the Writ Petition No.19297 of 2001, and any order passed rejecting those would not extend any fresh cause of action to the petitioner. In fact, this is what is precisely observed by respondent No.1, while rejecting the claim of the petitioner that his claim had already been considered twice and filed. And even the writ petition filed in this regard had been dismissed. Concededly, brother of the petitioner late Shaminder Singh had died on 10.03.1993 and, thus, 22 years have already gone by. Needless to assert the very purpose and objective to afford employment on compassionate grounds is to mitigate the immediate financial crisis and hardship. Therefore, the claim of the petitioner is not only misconceived but is also untenable. In fact, repeated representations by the petitioner to the department and the petition in hand, is nothing but an attempt to revive the stale and misconceived claim.

In the wake of the position as set out above, there hardly exists any ground to interfere with the order being assailed in the instant petition. Petition being devoid of merit is accordingly dismissed.

13.03.2015

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(ARUN PALLI)
JUDGE