

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

LPA No.1560 of 2015(O&M)

Date of decision:21.12.2015

Dharamveer

....Appellant

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. C.M. Chopra, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 13.07.2015 whereby the claim of the appellant for appointment on compassionate grounds remained unsuccessful.

The father of the appellant, Hari Singh, joined as Beldar in Ranjit Sagar Dam Project on 29.05.1985 on work charge basis and left the job on 19.01.1992. His services were terminated on 14.08.1992 but w.e.f. from 19.01.1992. He died on 01.12.1992.

The appellant sought appointment on compassionate grounds after attaining the age of majority in the year 2002. The claim of the appellant was considered by the Committee of the Officers on 11.03.2014 whereby the service dues of the deceased were ordered to be paid but the appellant was not found entitled to Government job on compassionate grounds. It is the said order, the challenge to which remained unsuccessful before the learned Single Bench.

Learned counsel for the appellant relies upon Certified Standing Orders in respect of work-charge staff of The Ranjit Sagar Dam Project Shahpur Kandi (Gurdaspur). The argument of the appellant is based upon Note 3 of the Clause 4 - Recruitment which reads as under:-

“4. RECRUITMENT:-

Recruitment of the work-charged establishment shall be made from amongst the persons who are eligible for the job.

NOTE:1 xx xx xx

NOTE:-3

1) Preferential treatment in the matter of employment/recruitment in work-charge establishment of R.S.D. Project will be given to the member of the family dependents of workcharged employee of R.S.D. Project who suffer severe injury or die due to accident while in service to mitigate the financial hardship as being done in the case of regular class-III and class-IV employees in various categories.”

Learned counsel for the appellant also relies upon orders of Hon’ble Supreme Court reported as Vijaya Ukarda Athor (Athawale) v. State of Maharashtra and others, (2015) 3 SCC 399 and Canara Bank and another v. M. Mahesh Kumar, (2015) 7 SCC 412.

We have heard learned counsel for the appellant and find no merit in the present appeal. As per Note 3 of the Certified Standing Order preferential treatment is required to be given to the deceased in case he dies due to accident while in service to mitigate the financial condition. Hari Singh, the father of the appellant, has neither suffered injury nor died due to accident. He abstained from duty may be on account of Tuberculosis but neither he received injury nor died during the course of his employment. Therefore, Note 3 of the Certified Standing Order cannot be relied upon to claim the benefit of employment.

At this stage, learned counsel for the appellant refers to the amendment in the Certified Standing Order vide order dated 24.10.1994 when the words 'due to accident' was approved to be omitted.

However, we do not find that amendment in the Certified Standing Order will advance the case of the appellant. The father of the appellant died in the year 1992. The compassionate appointment is given to meet the immediate financial difficulty which the family may suffer. The appellant has sought appointment after more than 20 years of the death of his father. Not only that the father of the appellant was a work-charged employee but his services were also not regularized.

A Full Bench of this Court in CWP No.7072 of 1994 titled Lakha Singh v. State of Punjab, decided on 21.10.2015, has examined the rights of a work-charged employee in a project like the project in question. It has been held that work-charged employee is not entitled to pension before regularization and the family members are not entitled to the family pension before regularization. If a family member of the work-charged employee is not entitled to pension or the family pension then consideration for compassionate appointment seems to be fully unjustified and that too after long lapse of time. The regular employment confer same statute as a person but not as a work-charged person.

Both the judgments referred to by learned counsel for the appellant does not pertain to a work-charged employee. A work-charged employee has no right to the service. He is working on the project. Therefore, such judgments do not advance the case of the appellant any further.

Keeping in view the long lapse of time between the death and the application for appointment and the fact that the appellant is son of deceased - work charged employee, we find that it cannot be made a ground for claiming appointment on compassionate grounds. The public appointments are required to be made only in terms of statutory rules and regulations and not otherwise.

In view thereof, we do not find any error in the findings recorded by learned Single Bench which may warrant interference in the present intra-Court appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

DECEMBER 21, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE