

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

LPA No. 1569 of 2015

DATE OF DECISION : 30.10.2015

Rakesh Kumar

.... APPELLANT

Versus

The State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARI PAL VERMA

Present : Mr. Ram Avtar Yadav, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 29.05.2015 passed by the learned Single Judge, whereby the writ petition (CWP No. 11868 of 2015) filed by the appellant seeking direction to the respondents to decide his representation dated 01.12.2014 (Annexure P-11) submitted to the Director, Secondary Education Haryana, Panchkula (respondent No.3 herein), for appointing him to the post of Assistant keeping in view his qualification, with effect from 30.12.1985 with all consequential benefits, has been dismissed.

We have heard learned counsel for the appellant and have gone through the impugned order.

Undisputedly, in the present case, father of the appellant was

working as Primary Head Teacher in the Education Department, Haryana. Unfortunately, he expired on 25.03.1985 while he was on duty. Thereafter, under the ex-gratia appointment policy of the State Government, the appellant was given appointment on the post of Clerk on 30.12.1985. After about 29 years of the said appointment, the appellant submitted representation dated 01.12.2014 to respondent No.3 seeking his appointment to the post of Assistant keeping in view his qualification, and when no action was taken on the said representation, he approached this court by filing Civil Writ Petition No. 11868 of 2015 seeking direction to the respondents to decide the aforesaid representation. The said writ petition has been dismissed by the learned Single Judge, while observing as under :-

“In the present case, the petitioner was appointed as a Clerk as per policy of ex-gratia appointment on 30.12.1985. Now the petitioner is claiming that he is entitled to be appointed as an Assistant by considering his qualification. The father of the petitioner expired on 25.03.1985 while on duty. The application of the petitioner was considered and he was appointed. The purpose is not to appoint by considering the qualification. Moreover, the application was made after an unexplained delay that too after the qualification was improved. As per policy, the ex-gratia appointment is to be given immediately to the family member of the deceased employee to come out from the financial crises arising due to death of earning family member. The petitioner cannot claim higher post as a matter of right only on the basis of his qualification and that too after a long delay of approximately 30 years.”

Now, we have been informed that the appellant has also retired from service.

After hearing learned counsel for the appellant, we do not find any merit in the instant appeal. The appointment made under the ex-gratia appointment policy was merely a concession to the family member of the deceased employee and once the said concession of appointing the appellant to the post of Clerk, a Class III post, was accepted by him in the year 1985, he cannot be permitted to raise the issue subsequently that he should have been appointed on the post of Assistant and that too after a long delay. In our opinion, the learned Single Judge has rightly rejected the claim of the appellant.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

October 30, 2015
ndj

(HARI PAL VERMA)
JUDGE