

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

LPA No.760 of 2015

Date of Decision:-18.05.2015

Mangat Rai

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

Present:- Mr. Mohit Garg, 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 24.12.2014 passed by the learned Single Judge, dismissing the writ petition filed by the appellant claiming that his appointment as Forest Guard in the year 2005 should be deemed to have been made in the year 1991 when he became entitled for compassionate appointment and submitted his application for grant of employment on compassionate grounds. The appellant has also challenged the order dated 2.5.2015 passed by learned Single Judge, whereby the review application has also been dismissed.

Though there is delay of 105 days in filing the appeal and the appellant has filed application (C.M. No. 1573-LPA of 2015) for condoning the delay, yet we have heard learned counsel for the appellant on merits and gone through the order passed by learned Single Judge.

Undisputedly in the present case the appellant's father was killed by the terrorist in the year 1990. The family was provided financial assistance as per the Financial Assistance Rules, 1986 by the Government to tide over their hardship. In the year 1991 the appellant sought compassionate appointment being a terrorist victim under the Punjab Government Policy dated 10.5.1990. After making persistent efforts the petitioner got appointed as Forest Guard on 1.8.2005. After accepting the said appointment, the appellant remained silent for more than nine years and only in the year 2014 the appellant filed aforesaid writ petition seeking direction to the respondents to treat his appointment made in the year 2005 to be deemed to have been made in the year 1991 and to count the said service for calculating his pensionary benefits. It is undisputed fact that today the appellant has retired from service. Learned Single Judge, has rejected the claim of the appellant on two grounds firstly that the appellant has approached the Court at a very belated stage and secondly no ante-dated appointment can be given to the appellant prior to the date of his actual appointment as during that period he has not served.

After hearing learned counsel for the appellant, we do not find any ground to interfere in the order passed by learned Single Judge. In our opinion also when the appellant was actually appointed in the year 2005 he cannot be taken back to have been appointed in the year 1991, from the date of his application seeking compassionate appointment. No such ante-dated appointment can be given under Service Rules. Therefore his claim has rightly been rejected by learned Single Judge. The judgment relied upon by learned counsel in Malkiat

Kaur Versus State of Punjab and others LPA No.2240 of 2011, decided on 1.8.2012, is also not applicable in the facts of the present case. In that case the victim had approached the Court much prior in time and thereafter he was granted relief. In the instant case, the facts are entirely different. Hence, in our opinion, on the basis of the aforesaid judgment, no relief can be granted to the appellant and his appointment in the year 2005 cannot be deemed to have been made in the year 1991, for which period he has not worked.

Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

18.05.2015
reema

(HARINDER SINGH SIDHU)
JUDGE