

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8391-2015

Decided on : May 09, 2016

LAXMI DEVI

....Petitioner

VERSUS

COMMISSIONER & SECRETARY TO GOVT. OF HARYANA
AND OTHERS

....Respondents

CORAM : HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. H.S. Dhandi, Advocate for the petitioner.

K. KANNAN, J (ORAL)

1. The revision petition is against the order declining relief for mandatory injunction for providing compassionate appointment to a legal heir of the deceased employee who was reported to have died in harness on 09.12.1992. The suit was filed on 05.05.2010, eighteen years after the death. The suit sought for declaration that the services of Hoshiar Singh, the deceased husband of the plaintiff must be regularized and that the plaintiff must have all the consequential benefits. The plaintiff stated that the prayer in the plaint was that the scale of pay of regular service must be provided and that further mandatory injunction for appointment through compassionate appointment must also be provided. The relevant part of the decree passed by the trial Court is as under:-

***“As a sequel to the findings of this Court on foregoing issues,
this suit succeeds and the same is hereby decreed and the
defendants are directed to regularize services of Sh. Hoshiar***

Singh w.e.f., 1.1.1987 and to give all the consequential benefits to the plaintiffs. Under the peculiar facts and circumstances of the case both the parties are left to bear their own costs.”

2. Admittedly, the plaintiffs have received the monetary benefits pursuant to the regularization. The judgment-debtor however has not provided for compassionate appointment and the execution petition was filed seeking for compassionate appointment as impliedly given while the Court was granting the consequential benefits. The judgment-debtor resisted the execution petition that the decree did not provide for such a relief specifically and that the executing Court accepted the contention.

3. The learned counsel states that the trial Court while framing issues whether the plaintiff was entitled to declaration of regularization of services under issue No.1, it was stated under issue No.2 whether plaintiff would be entitled mandatory injunction as prayed if issue No.1 was proved. According to him, mandatory injunction comprised of several reliefs including the relief of compassionate appointment as well and when the Court was finding that the suit succeeded, it ought to be taken providing for mandatory injunction on compassionate appointment. The counsel would refer the decision of the Hon'ble Supreme Court made in ***Haryana Vidyut, Parsaran Nigam Limited and another versus Gulshan Lal and others in 2009(13) SCC 354*** that examined the powers of the executing Court and the need for giving effect to the decree in full. In that case the plaintiff sought for a declaration for a particular scale of pay to be given and had also sought for mandatory injunction directing the defendant to release the

higher scales of pay w.e.f. a particular date. The Court was explaining that if the Court was providing for a decree granted injunction that spelt out, release of higher pay scales must be fully given effect to.

4. I may not be able to find any use for the application of this judgment for granting injunction for release of retiral benefits or consequential benefits to be understood as including a prayer for compassionate appointment. It must be remembered that compassionate appointment is a deviation from Article 14 and it cannot be claimed as a matter of right, as laid down through several judgments and reiterated through the decisions in *MGB Gramin Bank versus Chakrawarti Singh 2014(13) SCC 583*, *Steel Authority of India Ltd. Versus Madhusudan Das 2008(15) Scale 39*, *In State Bank of India versus Raj Kumar 2010(11) SCC 661*, the Supreme Court held that appointment on compassionate grounds is not a source of recruitment but it is an exception to the general rule of recruitment. *In M/s Indian Drugs and Pharmaceuticals Ltd. Versus Devki Devi 2006(5) SCC 523*, it has been held that compassionate appointment can be offered in exceptional circumstances only in accordance with the rules or policy framed for that purpose and Courts shall not interfere to grant any relief which is outside any particular scheme that provides for compassionate appointment. Since compassionate appointment is an exception of Article 14, it is beset with several limitations:-

- (i) The scheme of compassionate appointment shall not be breached;
- (ii) the period of compassionate appointment cannot be extendable whimsically to any length of time. (iii) compassionate appointment is to provide relief from deprivation and poverty arising out of sudden death of

the bread winner. The immediacy of the relief, is the hallmark in every such situation. The question to be raised is not who was responsible for the delay. The question to be raised is whether there was any delay at all and whether the grant of relief for compassionate could be given. 20 years after death, there could never be a decree for compassionate appointment.

5. I cannot read into the relief which has been granted by the trial Court that it included the prayer for mandatory injunction for appointment. The executing Court has not granted the relief. It was a correct approach to the point of law involved and would require no intervention in revision.

6. The impugned order is maintained and the revision petition is dismissed.

May 09, 2016
Rajneesh

(K. KANNAN)
JUDGE