

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

202

RSA No. 2286 of 1994 (O&M)

Date of decision: 09.08.2016

Satya Vir

.... Appellant

Versus

HSEB and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Ranjit Singh, Advocate for the appellant.

Ms. Sunint Kaur, Advocate for the respondents.

P.B. Bajanthri, J. (Oral)

CM No. 10208-C-2016

This is an application for placing on record instructions dated 26.11.1971 as Annexure R1/1 and exemption from filing the certified copy of the same. Heard. In view of the reasons mentioned in the application, which is duly supported by an affidavit, same is allowed.

Annexure R1/1 is taken on record.

Disposed of.

Main case.

In the present appeal, the appellant has assailed the order dated 03.02.1994 passed by the appellate court.

2. Father of the appellant was serving as Chowkidar in the office of SDO, Haryana State Electricity Board, Kosli in the year 1983. While he was in service he died on 06.09.1983. Petitioner submitted application for

compassionate appointment. The same was not considered. It was rejected on 06.12.1984 with reference to the policy relating to compassionate appointment dated 14.09.1983. Appellant filed a suit for declaration. Suit was decreed in favour of the appellant. Respondents-Board aggrieved by the order of the trial court dated 25.04.1992 filed an appeal before the appellate court. The appellate court allowed the appeal of the respondents-Board on 03.02.1994. The appellant aggrieved by the order of the appellate court presented this appeal.

3. Learned counsel for the appellant submitted that father of the appellant was a Chowkidar. He died while in service. Consequently, appellant being son of the deceased employee is entitled for compassionate appointment. The same has been rejected with reference to policy dated 14.09.1983. It was further pointed out that consideration of the appellant's claim for compassionate appointment should have been with reference to policy dated 26.11.1971 for the reasons that appellant's father died on 06.09.1983. As on 06.09.1983 the policy dated 26.11.1971 was in vogue. Therefore, rejection of the appellant's claim for compassionate appointment with reference to policy dated 14.09.1983 is illegal and arbitrary.

4. Per contra, learned counsel for the respondents restricted the arguments of learned counsel for the petitioner contending that there is a delay in filing suit for declaration. That apart, there is not much change in the policy dated 26.11.1971 and 14.09.1983. Now the relief at this belated stage cannot be given for the reasons that appellant is more than 50 years old. Admittedly, appellant's claim for compassionate appointment has been rejected with reference to policy dated 14.09.1983. The respondents have not applied their mind while considering the claim of the appellant's for

compassionate appointment with reference to date of death of father of the appellant i.e. on 06.09.1983. As on the date of the appellant's father's death is taken into consideration policy required to be applied is dated 26.11.1971. It was further argued that appellant's two elder brothers were already serving in the Board.

5. Learned counsel for the appellant submitted that even though they are serving in the Board-respondents, they are independent with their own family, whereas, the appellant is dependent on deceased employee. Therefore, contention of the respondents-Board that two brothers of the family are already working in the Board cannot be taken into consideration.

6. In 1971 policy there is no hurdle for issuance of appointment order if any members of family are working. That apart, having regard to the age of the appellant, at this juncture, question of issuing directions to the respondent to appoint the appellant on compassionate ground is not fair. Instead of issuing directions for reconsideration of appellant's claim for compassionate appointment with reference to policy dated 26.11.1971, it is appropriate to direct the respondents to pay compensation of Rs.50,000/- to the appellant. Since appellant is before one or the other court, trial court decreed his suit and appellate Court reversed, that apart, the Board should have passed speaking order with reference to 1971 policy and not 1983 policy. Compensation shall be paid within a period of 3 months.

09.08.2016

pooja saini

**(P.B.BAJANTHRI)
JUDGE**

Whether speaking/reasons

Yes/No

Whether Reportable:

Yes/No