

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17788 of 2006 (O&M)
Date of Decision: 10.11.2016

Jagtar Singh

... Petitioner

Versus

The Chief Secretary to Govt. of
Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Vikas Chatrath, Advocate,
for the petitioner.

Mr. J.S. Bedi, Addl. AG, Haryana.

RAJIV NARAIN RAINA, J.

1. This petition involves claim for compassionate appointment by a son of a deceased Government employee, his mother. Mother was working as a Head Teacher in the Education Department, Haryana. She died while in service on February 12, 1997.

2. In less than a month of the death the petitioner applied for compassionate appointment. He sent a reminder in January 1998. His case was turned down on August 27, 2004 being time barred. After over a year he served a legal notice on the respondents in September 2005 against the rejection of his request which he claimed was an illegal order since he applied in time. The claim was rejected for the second time on February 02, 2006 even when there was no statutory obligation on the authorities to consider the case closed.

3. After the death of his mother in 1997 the petitioner was with his father. He was also a Government servant working as an Assistant in the office of the District Town and Country Planning Officer, Jagadhari,

Haryana. Two months after his request was declined for the second time his father died. The petitioner became an orphan. It may be mentioned that his father re-married on October 16, 2002 (mentioned as 1998 in succession proceedings) and consequently the family pension availed by the father received through his deceased wife was transferred in the name of the petitioner vide order dated April 22, 2006. The right to receive family pension was till the age of 25 years or the dependent starts earning livelihood, whichever is earlier. The date of birth of the petitioner is April 05, 1985 which makes him aged about 31 and a half today.

4. Rendered orphan, the petitioner made another bid for compassionate appointment citing executive instructions dealing with cases of orphans which he said independently entitle him to re-consideration of his case for compassionate appointment under The Haryana Compassionate Assistance to the Dependents of Deceased Employees Rules, 2003 ("2003 Rules"). These rules make special provision under Rule 18 for orphans. Rule 18 lays down:-

"18. There shall be no relaxation of any provision of these rules. However, as a special case, these rules shall be relaxed only in the cases of children who have become orphans upon the demise of the Government employee. The claim of the appointment of such orphans, shall remain alive till one child has attained majority/minimum eligible age for entry into Government service."

5. Mr. Chatrath argues that his client has a right to compassionate appointment on the ground that respondents were not alive to the provisions of Rule 18 and rejected the claim of the petitioner blindly on the ground that he applied after three years of the death. He relies on a decision of this

Court in Kumari Bandana Sharma v. State of Haryana and others reported in 2006 (3) SCT 619 (DB) which is an authority dealing with Rule 3 (k) read with Rule 18 of the 2003 Rules while dealing with a case of an orphan.

6. The respondents have filed a written statement and have contested the case. It is maintained that the petition was premature on the date of the written statement i.e. September 10, 2007 because a petition under the Indian Succession Act, 1925 was pending in the court of the Civil Judge (Senior Division), Jagadhri exercising powers of the District Judge, Jagadhri under Section 373 of the Indian Succession Act, 1925 in respect of estate of late Mewa Singh son of Nihal Singh [his father] in petition No.83 of 2006 titled Amrit Kaur etc. v. General Public etc. Amrit Kaur is the step mother of the petitioner who had embroiled him in litigation.

7. In the replication, it is disclosed that the petition stands decided on January 13, 2009 by issuing succession certificate partly in his favour as compromised by dividing shares. It may be recorded that the matter was compromised by the parties before the Court with which we are not concerned in a case of compassionate appointment.

8. Heard learned counsel for the parties at considerable length.

9. At the outset, this Court asked Mr. Chatrath appearing for the petitioner whether his case was about compassionate appointment or financial assistance, or one as alternative to the other, and he insisted that his case should be examined from the point of view of ex-gratia appointment. The case has been considered accordingly. The petitioner is in his early thirties. His parents were Government servants. It cannot be said that on the date of death of the mother on February 12, 1997 or on the date

of death of the father in April 2006 the petitioner's economic condition was precariously penurious. The petitioner appears to be well provided for even up to the age of 25 on family pension as witnessed by the order of the Accountant General, Haryana, apart from other financial benefits received by compromise struck before the Civil Court at Yamunanagar in 2009 sharing the estate of the deceased Mewa Singh with his second wife Amrit Kaur in the manner settled outside court.

10. Lastly, Mr. Chatrath contends that Rule 18 (2) of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005 should be applied in his case since an orphan is a special case and rules can be relaxed. No limitations run against cases of orphans in terms of this provision. The rights of orphans remain alive till one child among the siblings has attained majority/minimum eligibility age for entry into Government service. The 2005 Rules repealed the previous rules promulgated in 2003. Nevertheless, it is not for the Court to exercise power under Rule 18 (2) and relax any rule by a command to the respondents. The case of the petitioner has been rejected more than once and I have no reason to revive a claim which was still-born.

11. The petitioner has not demonstrated that he has no means to sustain his family and if he is married and raising a family he must be in settled life, yearning only for a government job which the world does. When I asked Mr. Chatrath pointedly whether his client was married his answer was non-committal.

12. Compassionate appointment is meant to tide over immediate hardship and financial crisis but is not meant to help a thirty plus gentleman

to propagate his family on Government salary and allowances. He has not even pleaded that all these years he has tried his best to secure public employment elsewhere and if he had made genuine efforts with the qualifications he may possess he may have secured an appointment on merit by know. God help those who help themselves is ancient wisdom and a workable solution.

13. I have no reason to believe that the financial condition of the petitioner at the time of death of his mother or at the time of death of his father supported a case for compassionate appointment to depart from the ordinary rule of appointments to public service coming through open competition. The petitioner has not even disclosed in the petition his financial condition on the date of its filing and ten years on during the pendency of this petition waiting in hope. The petitioner has settled up his financial affairs with his step brother and sister, Jaswant Singh and Kulwinder Kaur besides Amrit Kaur who are also Class I legal heirs of late Mewa Singh entitled to succeed. The claim for financial assistance has not been gone into when given up in the opening arguments. I have serious doubt on this score as well but make no comment.

14. No ground is made out to interfere in the impugned orders and accordingly the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

10.11.2016
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Whether speaking/reasoned Yes

Whether reportable No