

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14430 of 2011(O&M)

Date of decision: 30.11.2016

Moorti Devi & anr.

... Petitioners

Versus

State of Haryana & anr.

... Respondents

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

Present: Mr. Vikas Kuthiala Advocate,
for the petitioners.

Mr. JS Bedi, Addl. A.G., Haryana.

RAJIV NARAIN RAINA, J.(Oral)

The office letter No.9/8-2006 P(3) dated 28.4.2006 issued by the respondent department was conveyed to petitioner-1, the mother of petitioner-2. Present dispute has arisen with reference to the assertions made in Civil Miscellaneous Application No.4276 of 2016 filed by the petitioners asserting that the letter was not communicated to them. This assertion was made in the context of paragraph 4 of the written statement filed by the District Elementary Education Officer, Faridabad, on behalf of respondents 1 & 2, dated September 27, 2012, wherein there is positive averment that petitioner No.1 was asked by the said letter if her son was willing to accept a Class IV post which was then available in the department, if yes, she should send her option for the same. But the petitioner did not respond to the said letter and consequently, an amount of ₹2.50 lacs was sanctioned by the department under Ex-gratia Scheme as financial assistance vide letter dated July 29, 2009 in lieu of service.

Thereafter, a bank draft of ₹2.50 lacs representing financial assistance

was released by the department vide letter No.9/18-06 P93), dated February 5, 2010 with the direction to the Drawing & Disbursing Officer to deliver the bank draft to the person concerned. But the petitioners refused to accept the amount. What is the effect of refusal to accept money offered by way of financial assistance and whether it amounts to permanent waiver of right accompanied by the presumption that the family was and is not facing acute financial stress and its reflection on the claims for both or either of the reliefs for job or money in lieu can be more suitably debated before the Civil Court together with an opportunity to lead evidence on whether the letter dated 28.4.2006 offering lower post was communicated to the petitioners or not. This is a seriously disputed question of fact which cannot be resolved in writ proceedings without recording evidence.

The petition is, accordingly, disposed of with the liberty to the petitioners to approach the Civil Court to determine the disputed questions of fact, if advised to do so.

(RAJIV NARAIN RAINA)
JUDGE

30.11.2016

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<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>