

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1388 of 2012

Date of Decision:- 02.08.2016.

Chuni Lal

.....Petitioner

Versus

The Indian Council of Social Science Research North-Western Regional
Centre, Panjab University

.....Respondent

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Amit Chopra, Advocate for the petitioner.

Mr. Vishal Garg Narwana, Advocate for the respondent.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant petition, petitioner has sought for a direction to the respondent to allow him to continue in service as Bearer-cum-Masalchi-cum-Chowkidar-Attendant. He has also sought for a writ of prohibition restraining the respondent from filling up the post of Bearer-cum-Masalchi-cum-Chowkidar-Attendant by way of fresh appointment.

2.) Petitioner's father Late Sh. Roop Singh was working as Bearer-cum-Masalchi-cum-Chowkidar-Attendant (Class-IV Post). He has rendered more than 24 years of service. Sh. Roop Singh died on 10.11.2010. Thereafter, petitioner was offered appointment to the post of Bearer-cum-Masalchi-cum-Chowkidar-Attendant.

3.) Learned counsel for the petitioner submitted that petitioner joined on 29.11.2010 pursuant to the approval of the Chairman of the

respondent dated 9.11.2010 (as approved on 15.11.2010) in the pay scale of ₹ 4900-10680+1300 as Grade Pay. The petitioner is stated to have been appointed on contract basis for a period of six months. However, vide memo dated 28.5.2011, he was relieved from the post stating that his contract period has expired on 28.5.2011. Further his contract was extended on 31.5.2011 for a period of six months. The respondent proceeded with recruitment to the post held by the petitioner on contract basis. In other words, petitioner's services would be deemed to be terminated as and when he completed contract appointment order issued on 31.5.2011. Hence, the petitioner has presented this petition.

4.) Learned counsel for the petitioner submitted that petitioner's father was appointed as Bearer-cum-Masalchi-cum-Chowkidar-Attendant and rendered 24 years of service. He was holding a Class-IV category post, therefore, there was a harness in the family and to meet the same, the respondents have considered and appointed the petitioner. Learned counsel for the petitioner further submitted that respondent is governed by the Government of India Rules and Regulations, Orders issued from time to time. Therefore, under the compassionate appointment scheme of the Government of India, there is no provision for appointing on contract basis. It was further submitted even assuming that Punjab University Compassionate Ground Appointment Scheme (Annexure R-2) relied upon by the respondents relating to compassionate appointment in the respondent organization, even in the said scheme of the Punjab University which has been adopted by the respondent is taken into consideration, there is no provision that compassionate appointment should be given on contract basis

months. Therefore, the petitioner is entitled for the relief sought in the present petition.

5.) Learned counsel for the respondent, on the other hand, opposed the claim of the petitioner contending that they have adopted Punjab University's Regulations relating to compassionate appointment and they have discretionary power to appoint a person on compassionate ground. He has pointed out the object of issuance of compassionate appointment is to meet harness in the family. Therefore, the petitioner was appointed only for a limited period and during the intervening period petitioner's family has overcome harness and there is no need to continue petitioner in service. Thus, the petitioner shall be taken back to duty forthwith. The petitioner has not made out a case. Perusal of the case, it is revealed that nowhere in the Compassionate Ground Appointment Scheme vide Annexure P-1 or Annexure R-2 a provision for appointment on compassionate ground for a limited period or on contract basis. The initial appointment of the petitioner is read down on permanent basis. The petitioner is entitled to all service benefits from time to time and he is also entitled to arrears of salary for the intervening period till date along with 6% interest.

6.) Petition is allowed with cost of ₹10,000/-.

(P.B. BAJANTHRI)
JUDGE

August 2, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes

Whether Reportable:-

No