

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

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**CWP No. 14904 of 2012 (O&M)
Date of decision:25.10.2016**

Sukhwinderjit Kaur

.... Petitioner

Versus

Union of India and others

.... Respondents

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

Present: None for the petitioner.

Mr. Ashok Kumar Arora, Sr. Panel Counsel for
Union of India-respondents.

P.B. Bajanthri, J. (Oral)

In the instant writ petition, the petitioner has questioned the validity of the result dated 01.11.2011 and rejection of the petitioner's candidature to the post of Constable (G.D.) vide letter dated 31.05.2012 (Annexure P6) and further sought for a direction to the authorities to appoint her on compassionate ground.

2. Petitioner's husband died on 09.09.2010 while he was in service. Consequently, the petitioner submitted application for appointing her on compassionate ground on 22.09.2010. Same was pending consideration before the respondents for various posts. Her name was considered for appointing to the post of Constable (G.D.). After due consideration the respondent authorities found that she was over aged for the post of Constable as on 31.05.2012. Thus, the petitioner has been

declined. Learned counsel for the Union of India submitted that petitioner was over aged by 5 months and 24 days for recruitment to the post of Constable (G.D.) under compassionate ground as on 31.05.2012. Age criteria is required to be examined in respect of compassionate appointment with reference to the date of death of deceased employee. In the present case, the petitioner's husband died on 09.09.2010. Therefore, as on 09.09.2010 eligibility criteria is required to be examined by the respondent authorities read with the policy relating to compassionate appointment. On the face of the records, it is evident that the petitioner's claim to appoint her on compassionate ground to the post of Constable (G.D.) rejected on 31.05.2012. The petitioner fulfills the qualification of age criteria as on 09.09.2010. Therefore, the impugned communication dated 31.05.2012 (Annexure P-6) is liable to be set aside.

3. Respondent No.2 is directed to reconsider the claim of the petitioner to appoint her as a Constable (G.D.) since the petitioner was not over aged as on 31.05.2012 for the reasons that her husband died on 09.09.2010 and eligibility criteria is required to be taken as on that date of death of the deceased employee read with policy existing as on that date.

4. Similar issue was subject matter before full Court of this court wherein it is held that eligibility is required to be examined with reference to the date of death of an employee read with policy existing as on that date. Hence impugned decision dated 31.05.2012 is set aside. 2nd respondent is directed to appoint the petitioner if she is otherwise eligible. The petitioner is also eligible for arrears of salary from June, 2012 till the date of appointment with all service benefits for the reasons that the error committed by the 2nd respondent assuming that the petitioner is over aged.

For no fault of the petitioner, she cannot be denied monetary benefits.

5. Respondent No. 2 is directed to pay arrears of salary within a period of 4 months from today so also consideration of appointment within the said period.

6. CWP is allowed.

(P.B.BAJANTHRI)
JUDGE

25.10.2016

pooja saini

Whether speaking/reasons	Yes/No
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Whether Reportable:	Yes/No
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