

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C. W. P.No. 18114 of 2013

Date of Decision : April 01, 2016

Ram Mehar Petitioner
vs.
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. J. S. Bedi, Addl. A. G., Haryana.

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DEEPAK SIBAL, J. :

Through the present petition, on account of death of his father in harness, the petitioner seeks compassionate appointment.

On 09.06.1993, the father of the petitioner, while working as a Field Worker in the office of District Malaria Officer, Karnal, died in harness. The mother of the petitioner had pre-deceased his father and being an orphan, the petitioner, though having applied for appointment on compassionate basis as late as in the year 2005, while relying on a judgment of this Court in **Renu Bala vs. State of Haryana and others – C. W. P. No. 8291 of 2008**, decided on **09.08.2010**, seeks consideration of his application

for being considered as a special case.

The matter, as sought to be projected on behalf of the petitioner, though attractive on first blush, does not stand deeper scrutiny. In the written statement filed on behalf of the State, it is their categorical stand that at the time of death of the petitioner's father, the petitioner had another brother namely Balbir Singh, who attained majority just three months after their father's death. In spite of the same, he never applied for seeking appointment on compassionate basis nor ex-gratia compensation. This fact has gone unrebutted on the record as no replication to the same has been filed in spite of an order of this Court dated 19.05.2014 specifically adjourning the case enabling the counsel for the petitioner to seek instructions on the maintainability of the writ petition in the light of the fact that the elder brother of the petitioner turned major in just about three months' time after the death of their father on 09.06.1993.

A perusal of the averments made in the writ petition further show that the fact, that the petitioner had an elder brother namely Balbir Singh, has been withheld. Rather, paragraphs 2 and 5 of the writ petition, while suppressing this fact, attempt to project that the only other siblings of the petitioner were his sisters and that there was nobody else in the family.

Paragraphs 2 and 5 are reproduced below for ready reference :-

“2. The petitioner's father late Sh. Abey Ram was working as field worker in the office of District Malaria Officer, Karnal. He expired on 09.06.1993. Petitioner was minor at the time of his father. His mother had already expired before the death of his

father. His sisters were married and as such he was solely member for consideration of ex-gratia benefits.

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5. *That petitioner was minor at the time of death of his father and no other family member was available who could peruse the case. On attaining the majority, petitioner made requests to the respondents to give him appointment under ex-gratia scheme. Civil Surgeon, Karnal vide letter dated 03.02.1997 again asked petitioner to submit the Legal heir Certificate, so that pending matter could be finalized. Translated copy of letter dated 03.02.1997 is being annexed as **Annexure P-3.***

Existence of an elder brother, who turned major soon after the death of his father, was a fact, which was crucial and should have been disclosed in the present writ petition filed by the petitioner seeking compassionate appointment. Withholding of such a fact would amount to suppression of relevant material from this Court. In view of the same, I hold that the petitioner has not come to the Court with clean hands and has thus, as per settled law, disentitled himself to be even heard on the merits of his case.

Even otherwise, the father of the petitioner died on 09.06.1993 and the petitioner admittedly attained majority on 10.01.1997. Even after attaining majority, the petitioner did not apply for compassionate assistance for over eight long years as it is the uncontroverted position that the first

application moved by the petitioner seeking compassionate assistance was only on 23.03.2005. This delay on the part of the petitioner would clearly disentitle him for any compassionate appointment or assistance.

It may further be noticed that the present petition was filed in the year 2013, which is after 20 years of the death of the father of the petitioner, 16 years of his attaining majority and over 08 years after he had applied for the first time seeking compassionate appointment/assistance.

In view of the afore-referred delay and having not come to the Court with clean hands, I find no reason to grant any compassionate appointment/assistance to the petitioner.

Dismissed.

(DEEPAK SIBAL)
JUDGE

April 01, 2016
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