

CWP No.17080 of 2016

#1# Manoj Kumar
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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17080 of 2016

Date of decision: 23.08.2016

Prince Nahar

....Petitioner

Vs.

State of Punjab & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Vivek K. Thakur, Advocate for the petitioner.

Jaswant Singh, J

Petitioner, who is the son of deceased Sarpal-Head Constable, is praying for issuance of a writ in the nature of Certiorari for quashing the order dated 22.6.2015 (P.11) passed by respondent No.3 with further directions to the respondents to re-consider his claim for appointment on compassionate grounds in view of Instructions dated 24.4.1986 (P.1) and letter dated 27.2.1992 (P.2).

It is contended by learned counsel for the petitioner that the case of the petitioner for compassionate appointment has wrongly been rejected by the respondent-Authorities while taking into consideration the fact that the family member i.e his mother is gainfully employed and working as a Clerk in the Health Department, Punjab and such a condition was not applicable at the time, when the father of the petitioner died in harness on 10.12.1990.

Heard counsel for the petitioner at length and perused the paper book with his able assistance.

It is not disputed that the father of the petitioner died on 10.12.1990 while working as Head Constable in the office of DSP, Kapurthala and at that time, the petitioner was three years of age as his date of birth is 04.7.1987. It is also not disputed that the mother of the petitioner is working as a Clerk with the Health Department. On attaining the age of 18 years, the petitioner moved an application for appointment on compassionate grounds but the same was rejected after consideration vide memo No.1/17/06-6H5/2093 dated 07.8.2006 as is clear from the subsequent communication dated 16.8.2012 (P.7), which was duly conveyed to the petitioner also. Still dissatisfied, the petitioner made a representation dated 20.9.2011 (P.6) legal notice dated 14.7.2014 (P.8) and also filed CWP No.4221 of 2015, which was dismissed as withdrawn by this Court vide order dated 11.3.2015 (P.9) and reads as under:

“Learned counsel for the petitioner prays that he be permitted to withdraw the instant petition and pursue the legal notice dated 14.07.2014 (Annexure P.8), served upon the respondents. He submits that let the respondents be directed to consider and decide the claim of the petitioner, as set out in the legal notice dated (Annexure P.8). Dismissed as withdrawn.

Needless to assert, if the legal notice dated 14.07.2014 (annexure P.8), is indeed pending consideration of the authorities, the same shall be considered in accordance with law.”

However, a perusal of the impugned order reveals that the legal notice dated 14.7.2014 was received in the office of

Inspector General of Police, Jalandhar Zone, Jalandhar on 26.9.2014 through the office of DGP, Punjab and after receipt of the comments/reports from the office of Sr. Supdt. Of Police, Kapurthala, the Inspector General of Police considered and rejected the same under intimation to respondent Nos.2 & 3, therefore, passing of the order dated 11.3.2015 by this Court is of no avail. The operative part of impugned order dated 22.6.2015 reads as under:

“Since the legal notice dated 14.7.2014 Annexure P.8 of CWP No.4221/2015 has already been considered and decided to be ignored by the Inspector General of Police, Jalandhar zone, Jalandhar vide his office letter No.17845/A-1 dated 18.12.2014 under intimation to the Director General of Police, Punjab, Chandigarh as well as to this office, as such the compliance of the orders of the Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No.4221/2015 is already been made.”

Despite the rejection of the case of the petitioner for appointment on compassionate grounds on attaining the age of majority way back on 07.8.2006, the petitioner had no valid cause to file the present writ petition, especially in view of the fact that the petitioner has already withdrawn his earlier writ petition No.421 of 2015 on 11.3.2015. Even otherwise, the compassionate appointment cannot be claimed as a matter of right and as per clause 13 (a) of the instructions dated 21.11.2002 (P.5) of the

Government of Punjab, an application for compassionate application is to be submitted to the Competent Authority within a period of six months from the date of death and the appointment is to be made within a period of one year within the Department and two years in the other Department. It is further stipulated that the **genuine belated request with cogent reasons for compassionate appointment can be entertained only within a period of five years from the date of death with the special approval of the Personnel Department and Finance Department** but in the present case, the father of the petitioner admittedly died on 10.12.1990 and the petitioner is filing the present writ petition on 19.8.2016 i.e after a period of almost 26 years, which cannot be countenanced.

In this view of the matter, the present writ petition is totally misuse of process of the court and deserves to be deprecated being totally bereft of merit.

Dismissed with costs of Rs.20,000/-.

August 23, 2016
manoj

(JASWANT SINGH)
JUDGE