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

**CWP No.21526 of 2015
Date of decision: 09.05.2016**

Sudesh Kumari

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. M.S. Sidhu, Addl. A.G., Haryana.

RITU BAHRI, J. (ORAL)

The petitioner has filed the present writ petition for quashing the order dated 12.02.2014 (Annexure P-12) whereby her claim for appointment under ex gratia policy has been rejected.

The petitioner had filed CWP No.2645 of 2012 for quashing the order dated 23.01.2006, vide which she was offered Class IV post, whereas, as per the rules of ex gratia, she was entitled to be appointed one step lower to the post held by deceased employee, who was petitioner's husband and was working as Lecturer in English at the time of his death i.e. on 09.07.2005. The writ petition was disposed of by giving directions to the respondent to consider and decide the case afresh to appoint the petitioner on the post of Clerk/PTI Teacher. In compliance of aforesaid directions, the petitioner was offered the post of Class IV employee and, thereafter, the claim of the petitioner has been rejected vide order dated 12.06.2012 on the

ground that no post of Clerk is available. The respondents have offered her appointment as Class IV employee but she did not accept the said offer.

In case of one Kamla Devi when her husband expired on 09.11.2005 while working on the post of Mathematics Master in her case the judgment passed by this Court in CWP No.7102 of 2010 titled as 'Kamla Devi Vs. State of Haryana and others' vide order dated 31.05.2012 (Annexure P-13) in her favour has been applied by the respondents by appointing Kamla Devi as Clerk vide order dated 13.08.2015 (Annexure P-16).

Learned counsel for the State has argued that in case of Kamla Devi, she could not be appointed as Hindi/Sanskrit Teacher as she had not passed STET/HTET test and as such she was appointed as Clerk.

Learned Single Judge has accepted, the stand of the State that in the absence of any vacant post she could not be appointed as Clerk, however, she is tried to justify the appointment on the post of Clerk vide Annexure P-10 on the ground that since the petitioner did not qualify the STET/HTET test and did not have certificate of STET/HTET, she was offered appointment to the post of Clerk. If the respondents have appointed Kamla Devi on the said post on 14.08.2015., then the claim of the petitioner could not have been rejected on 12.02.2014 on the ground that there is no vacant post available.

Moreover, the petitioner's husband was working as Lecturer in English and post of Clerk being one step lower, could not have been offered. At this stage, learned counsel for the petitioner urged that since the petitioner's husband expired before the husband of Kamla Devi, the respondents should have considered her to the post of Clerk at par with

Kamla Devi.

For the reason mentioned above, the order dated 12.02.2014 is set aside and the writ petition stands allowed with ₹25,000/- cost with a direction to the respondents to appoint the petitioner to the post of Clerk.

09.05.2016

Bhumika

**(RITU BHARI)
JUDGE**