

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

CWP No.21843 of 2015

Date of Decision: 5.2.2016

Avtar Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Sandeep S.Majithia, Advocate for the petitioner

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner wants a direction from the writ court to provide him compassionate appointment in place of his father who met with an accident on 23rd April, 2008 suffering fatal injury resulting in death on the spot. He was then serving as a Special Police Officer (SPO) with the Punjab Police. On the death of his father, the petitioner applied for grant of compassionate appointment in place of his father on 20th February, 2009. The position is that SPOs are neither regular recruits to police service nor enjoy status of Government servants protected by Article 311 of the Constitution of India. The case of the petitioner is rather convoluted and depends on imponderables or an “if” of history flowing from a letter issued by the Government of Punjab on 15th September, 2005 inviting SPOs to join regular police (Home Guard) as Constables in District Police. He argues that supposing his father had become a regular constable like some other SPOs who were appointed

Constables in the year 2008, then he would have a right to compassionate

appointment. The petitioner mentions that his father late Dalip Singh was survived by his wife Amarjit Kaur and their son, the petitioner. Neither has Amarjit Kaur nor the petitioner applied to the Police Department for declaration that late Dalip Singh should be treated as a regular Constable to claim benefits such as family pension etc. Such a request has not been made either to the Police Department or in an action brought in a court of law earlier to this petition and the claim presently is confined only to secure a compassionate appointment as a son of the deceased SPO. No policy has been produced on the record that wives/wards of SPOs have a right of consideration for compassionate appointment in Punjab Police. Moreover, the death of the father occurred in a motor accident near Preet Dhaba, Sangrur Road, Dhanaula and it is also not known whether it arose out of or during the course of duty as an SPO. It is besides the point that an FIR was registered for rash and negligent driving by the alleged offending party. The result of the FIR is not known or whether it culminated in trial. Even that fact would be rather immaterial and irrelevant to consideration with respect to compassionate appointment which depends on the event of death of government servant. The only official document placed on record obtained is response to information sought under the Right to Information Act, 2005 on 22nd December, 2014 requesting supply of list of SPOs converted into Home Guards from 2005 to 2010. The name of the father of the petitioner does not find mention in that list. Even though 19 SPOs named were converted into Home Guards in 2005 and four of them in 2008 shortly before the death of Dalip Singh. It is also not known whether the conversion took place with retrospective effect in each of the cases of the 19 SPOs listed in Annexure P-7 dated 23rd December, 2014. What has been placed on record is a Memo dated 11th October, 2013 which declines the request of the petitioner for

appointment on priority basis on the ground of not being covered under the instructions of the Government of Punjab. The petitioner's case was filed vide this impugned Memo. The petitioner has not even impugned this order in the writ petition in any of the prayers at the foot of the pleadings. Another fact which deserves to be noticed is that the petitioner approached this Court through CWP No.13270 of 2015 which was dismissed as withdrawn with liberty to file a fresh petition with better particulars. The petitioner has not even thought it fit to mention the date of passing of the order in the present writ petition but this Court took the trouble of calling for the order passed in the said writ petition from where it is revealed that the following order was passed on 6th July, 2015:-

“Having argued the matter at some length, learned counsel for the petitioner prays that he be permitted to withdraw the instant petition, being inchoate, with liberty to file a comprehensive petition with better particulars and details.

Dismissed as withdrawn with the liberty as prayed for.”

2. In order to understand the casualness with which this petition has been filed, especially with reference to the earlier writ petition, it would be appropriate to reproduce the contents of paragraph 12 of the writ petition:-

“12.That no such or similar petition has earlier been filed by the petitioner either in this Hon'ble Court or in the Hon'ble Supreme Court of India except CWP No.13270 of 2015, which was dismissed as withdrawn as directed this Hon'ble Court to the petitioner to file a fresh with better particulars.”

3. This Court never directs parties to file a petition again on the same cause of action with better particulars except when it is prayed for at the bar.

It only grants liberty, and therefore, the word “directed” is highly

objectionable in pleadings filed before this Court. This Court restrains itself

from dismissing this petition with heavy costs. The petitioner has no demonstrable right to compassionate appointment which is not a source of recruitment but the anti thesis of Articles 14 and 16 of the Constitution. There is nothing on record to suggest anything which may indicate the penurious state of the petitioner or extraordinary monetary travails the family has faced after the death of the Dalip Singh and continues to reel under justifying compassionate appointment.

4. I find no merit in this petition warranting interference in writ jurisdiction and the same is accordingly ordered to stand dismissed.

5.2.2016
MFK

(RAJIV NARAIN RAINA)
JUDGE