

IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH

CWP No.22847 of 2014
Date of decision: 01.08.2016

Harman Singh

...Petitioner

Vs.

The State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Ms. Ekta, Advocate
for Mr. R.K.Chopra, Advocate
for the petitioner.

Mr. Anshul Gupta, AAG, Punjab

DAYA CHAUDHARY, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ, direction or order quashing the words “In deserving cases” as mentioned in the instructions dated 21.11.2002 issued by the State of Punjab (Annexure P-12) being illegal and arbitrary.

Learned counsel for the petitioner submits that the provision mentioned in the policy is being misused as no guidelines have been issued by the respondents while appointing a large number of persons who are similarly situated.

In response to notice of motion issued on 11.11.2014, reply has been filed, which is on record.

Learned State counsel submits that the policy/

instructions dated 21.11.2002 was subject matter of challenge in CWP No. 3812 of 2015 filed by one Smt. Kamlesh and the same was dismissed. Learned State counsel also submits that the claim of the petitioner was rejected but the order has not been challenged.

Heard the arguments of learned counsel for the petitioner and have also perused the documents available on record.

I have also perused the judgement passed in CWP No. 3812 of 2015 decided on 11.03.2015. Admittedly, the policy / instructions dated 21.11.2002 was challenged before the Single Bench of this Court but since the instructions were challenged, the matter was referred to the Division Bench, and the writ petition was dismissed on 11.03.2015. The relevant portion of the same is reproduced as under:-

“ In the impugned letters, it has been stated that as per the instructions dated 21.11.2002 issued by the Government, married daughter is not covered by definition of “family”, therefore, she cannot be considered eligible for giving the compassionate appointment.

It has not been disputed that under the Hindu Law, a married daughter cannot be considered as dependent of her father or dependent of joint Hindu family. After the marriage, her husband is not only her guardian but he is under legal obligation to maintain her. Under the Hindu Law, after the marriage, the daughter even does not remain member of the family of her father and she becomes member of her in-laws

family.

It has been argued that as per the amendment of 2005 in the Hindu Succession Act, 1956, a married daughter has been made a coparcener in the Hindu joint family, therefore, she can be treated as a member of the family of her father. This contention cannot be accepted. The question is as to whether a married daughter can be said to be dependent of her deceased father. After the marriage, the daughter cannot be said to be dependent of her father. Therefore, even by taking the aforesaid amendment in the Hindu Succession Act into consideration, in no circumstance, it can be said that after the death of her father, the petitioner has a legal right to get the compassionate appointment. Since a married daughter is not considered as dependent of the deceased father, she is not legally entitled to get compassionate appointment under the policy/instructions dated 21.11.2002 (Annexure P-1) and her claim has been rightly rejected.

No merit. Dismissed.”

It is also not disputed that the claim of the petitioner was rejected vide order dated 23.03.2005 (Annexure P-1) with the written statement. The mother of the petitioner was working at the time of death of father of the petitioner. It cannot be said that the petitioner was dependent upon the income/salary of the deceased-father. Moreover, the rejection order has now been challenged whereas the father of the petitioner had expired on 07.07.2001 while in service. Unexplained delay is there and it cannot be said that at this stage that there is a financial emergency or petitioner is not in a

position to maintain himself being dependent upon the income of the deceased-father as the mother of the petitioner was also working. Subsequently, the mother of the petitioner has retired and she might be getting pension.

On perusal of written statement, it is clear that mother of the petitioner was getting an amount of ₹5,740/- per month as family pension. Apart from the family pension, the family was paid an amount of ₹4,11,665/- as part of retiral benefits of the deceased Government employee. It cannot be said that it was a deserving case for providing compassionate appointment.

The object of the Scheme is to grant appointment on compassionate grounds to a dependent family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury and without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency.

Accordingly, there is no merit in the contention raised by the petitioner and the petition being devoid of merit is dismissed.

01.08.2016

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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No