

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 5297 of 2013

Date of decision: 16.11.2016

Prakhar Kamboj

... Petitioner

Versus

State of Haryana & anr

... Respondents

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

Present: None for the petitioner.

Mr. JS Bedi, Addl. AG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

Neither the petitioner has appeared nor his counsel when the case was taken up for final disposal of the compassionate appointment bunch of cases as indicated in the note in the cause list of Court Room No.21 that adjournments will not be given, for the success of this drive to take up everyday five cases to be decided before motion matters. I have therefore heard the State on the merits of the case. The necessary facts deserve notice.

The father of the petitioner was the member of the Haryana Civil Services (Executive Branch). The parents of the petitioner died in the unfortunate fire tragedy that took place on December 23, 1995 in DAV School, Dabwali, where the father of the petitioner was posted as Sub Divisional Magistrate, Dabwali. His wife accompanied him to attend a function organized in a school when the tragedy struck. The petitioner was sadly left an orphan at a young age. The State of Haryana as an exception to the rules and without there being any policy in existence granted ex-gratia a

sum of ₹ 3.00 lacs to the family of the deceased officer and offered the petitioner full salary till the date the father of the petitioner would have retired on reaching the age of superannuation. The petitioner is before this Court claiming appointment to the HCS (EB) on compassionate grounds citing earlier examples where such power was exercised by the Government.

Mr. Bedi for the State of Haryana draws attention of the Court to the ruling in State Bank of India & ors. v. Surya Narain Tripathi, 2014(2) SCT 161, where the Supreme Court observed authoritatively that if an employer finds out that the financial arrangements made for the family subsequent to the death of the employee is adequate, the member of the family cannot insist that one of them ought to be provided a comparable appointment. The object of compassionate appointment is basically a way out for the family which is in acute financial difficulties on account of death of the bread-earner. It is not an avenue for regular employment or a source of recruitment. It is an exception to the rule of equal opportunity under Article 16 of our Constitution. Moreover, in Umesh Kumar Nagpal v. State of Harayna, 1994(3) SCT 174, the Supreme Court while dealing with the policy of the Haryana Government on compassionate appointments ruled out the authority in Government to offer appointment in Class I & II service to the dependent family member by approving such right limited to Class III & IV service. In deciding such cases the social status of the family was held irrelevant consideration and the only material factor to be examined was the acute financial straits the family might face on the death of the bread-earner. It is for the State Government to enquire whether it is adequate and if it is, then the petitioner is sadly mistaken that the Court will lend its hand and provide employment by a mandamus to the premier State

service which is highly coveted and the competition razor sharp before the recruiting agencies which is the Haryana Staff Selection Commission. The very fact that the petitioner has been granted full salary of his father till he would have reached the age of retirement on superannuation is sufficient to take out his case from the earlier ex gratia policies including the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006, which provide the same mechanism but at three different stages according to the age of the death of the Government employee. It may be recorded that the petitioner got the full salary for 18 years onwards till the appointed date which is far more than anything provided in the Rules, 2006.

As a result of the above discussion, I find absolutely no merit in this petition claiming appointment to HCS (EB) or any other superior or inferior post and dismiss the same, without costs.

(RAJIV NARAIN RAINA)
JUDGE

16.11.2016
monika

Whether speaking/reasoned *Yes*

Whether reportable *No*