

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

Date of decision: 29.02.2016

CWP No.4014 of 2016

Tarinderjeet Singh

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Ms. Anju Arora, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.

1. The petitioner seeks compassionate appointment. His father was a Head Constable in Punjab Police, who unfortunately died in 1986 in an encounter with terrorists in the dark days while on duty leaving behind his wife and a three year old son – the petitioner. When the petitioner turned major and passed B.A Part-I examination, his mother made a request to the Deputy Commissioner, Jalandhar for ex gratia appointment for her son as Kanungo. Her request was forwarded to the Deputy Commissioner, Nawanshehar since there was no post of Kanungo lying vacant in District Jalandhar. The petitioner pleads that at the relevant time, eight posts of Kanungo were lying vacant in District Nawanshehar. These papers were moved in the year 2001. But that position did not turn out to be true. There was no post lying vacant there and no action could be taken on the application for lack of an opening.

2. It is pleaded in the petition that the Department of Re-settlement, which looks after the affairs of victims of terrorism in Punjab, should consider the name of the petitioner for compassionate appointment. The letter was sent to the Deputy Commissioner, Jalandhar in August, 2002. The Collector, Jalandhar passed an order thereon that the petitioner could be nominated as a Patwari candidate falling in the category of Terrorists Affected persons. Heartbroken, the petitioner had set his eyes on the post of Kanungo feeling ashamed of being just a Patwari. He was indeed successful in finding a berth as a Patwari on nomination deployed for training in Patwar School in the Session starting May 2003 which was a spring board to regular appointment. After completion of prescribed training as condition precedent to appointment, he was appointed as Revenue Patwari in District Jalandhar. Even still, the petitioner laments that he had no alternative except to join as Patwari when he was good enough to be a Kanungo. He persisted in his pursuit to gain status in his community as a Kanungo.

3. His perseverance brought him to obtain supply of information under the Right to Information Act, 2005 with respect to the vacancy position of Kanungos in direct recruitment processes held in the years 2000 to 2002. He was informed that during the period one post was left vacant by direct recruitment. His relentless pursuit brought forth information that persons similarly situated being members of the family of terrorists affected, namely, Mandeep Singh son of Pyara Singh from Jalandhar and Rajinder Singh son of Harnek Singh from Patiala were appointed as Kanungo in the same year while the petitioner was appointed as Patwari in the revenue department. This was discriminatory treatment which Article 14 abhors and requires amends by court intervention. There was another case to cite of a person namely Varinderpal Singh Dhutt, appointed as Kanungo in the same category of terrorist affected

persons in the revenue district of Hoshiarpur, Punjab. This impelled the petitioner's mother to submit yet another representation to the Revenue Minister, Punjab, which is undated with nothing revealed either in para.14 of the writ petition or in the index as to the date of the memorial presented for kind consideration of the Minister in-charge of the department. When nothing was heard, she made another representation on 25th March, 2014 to the District Collector, Jalandhar. The same was however declined on 4th November, 2014 informing the addressee that the petitioner would be promoted as a Kanungo as per the provisions of the Punjab Kanungo Class III Service Rules, 1994 on the basis of seniority-cum-merit, but her son cannot be considered for appointment to the higher post. It is this action which has brought the petitioner to court in the present petition.

4. On an overview of the matter, it is noticeable from the file that the petitioner has not pleaded material facts and circumstances in which the three persons mentioned at para.13 of the petition were appointed as Kanungos. The petitioner made no effort in his application under the Right to Information Act to ferret this information, but centered his request for supply of information as to the number of vacancies in the two districts where he has set his heart. Therefore, nothing can be said on those appointments to examine the issue of discrimination any further.

5. It is by now well settled that the purpose of compassionate appointments is to be made strictly according to policy instructions issued by Government. There is no doubt that the petitioner's case has been considered as a dependent of terrorist victim since he has been appointed as Patwari and is working as such. It is equally well settled that the object of compassionate appointments is satisfied when it is granted and such a person cannot insist to lay claim on a higher post. Once compassionate appointment is offered, the

transaction is complete. The purpose is served for the family. A claim for appointment to higher post is not maintainable because the power to appoint on compassionate grounds stands denuded once and for all. There is no gainsaying that compassionate appointments are designed to tide over financial hardship and not to serve as a perennial source of appointment in contradiction of the equal opportunity clause in articles 14 and 16 of the constitution of India where public posts are open to all.

6. Terrorist affected families are to be viewed in a manner that serves justice for all, without being weighed down by many others across the nation who have sacrificed their lives for the cause of the nation and yet others who can't find a square meal. I find nothing on record to sway me to hold in favour of the petitioner and direct the State to appoint the petitioner to the higher post claimed. The first appointment accepted would bring compassion to an end as the purpose stands served. Mere compassion and sympathy is not strong enough a crutch to carry supplicant to the next rung in the ladder. The policy on compassionate appointments is not spelled out to serve greed or personal ambition.

7. For these reasons, I would not interfere in this matter and would dismiss the petition.

29.02.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE