

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.4303 of 2016

Date of decision: 3.3.2016

Gagandeep Singh Raikhi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Vijay Rana, Advocate for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks setting aside of order dated 5.3.2015 (Annexure P/15) passed by the Chief Secretary, Government of Punjab whereby his claim for appointment against the post of PCS (Executive Branch) has been rejected.

The petitioner seeks consideration on the ground that his family is a terrorist victim and father of the petitioner was working as S.D.O. in the Punjab State Electricity Board in District Amritsar and lost his life on 19.9.1991. Resultantly, appointment is sought in the executive branch of the State services.

It is not disputed that in pursuance of sudden death of the father of the petitioner, the petitioner's family was given the benefit of special family pension equivalent to the last pay drawn at the time of death upto superannuation of the deceased employee and Ex-gratia grant of ₹ 50,000/- by the erstwhile Punjab State Electricity Board. The petitioner on having acquired the Diploma in Electrical Engineering on 18.3.1999 (Annexure P/4) was thereafter appointed as a Junior Engineer in pay scale of ₹ 6100-200-6500-250-8000-275-9100-300-9400 vide order dated 9.7.1999 (Annexure P/5) on compassionate ground. Thereafter during service period, the petitioner has completed his B.Tech in Electrical

Engineering from the Thapar Institute of Engineering and Technology, Patiala in the month of August, 2011 (Annexure P/10). On the basis of the said improvement in qualification, the petitioner filed representation for appointment in the State services on priority basis giving various examples and seeking consideration. Initially the request was filed on 14.5.2014 on account of the fact that he had already been given appointment. The petitioner then approached this Court by way of filing Civil Writ Petition No.14983 of 2014 in which a direction was issued on 31.7.2014 (Annexure P/13) to decide the representation within a period of three months. Resultantly, the impugned order dated 5.3.2015 (Annexure P/15) has been passed.

The reasoning given in the said order is that the instructions dated 22.11.2002 with regard to compassionate appointment specifically provided that if some person makes advancement and requests for consideration for compassionate appointment to any higher post, the same is to be rejected. The example given of Mr. B.K.Sharma, Executive Engineer, has been distinguished on the ground that it was in the year 1987 and was considered being a single case because there was no such instructions at that point of time. The instructions were only issued in the year 1988 on the basis of which the petitioner's family has been given benefits.

Keeping in view the above, this Court is of the opinion that the petitioner way back in the year 1999 had accepted the appointment granted to him as Junior Engineer on the basis of his qualification 8 years after the death of his father. Solely because he has improved his qualification subsequently as such there is no vested right to ask for appointment to the post of PCS (Executive Branch).

In **I.G. (Karmik) & Ors. Vs. Vs. Prahalad Mani Tripathi**

(2007) 6 SCC 162, it has been held that the purpose is not to provide for endless compassion. Relevant para no. 7 reads as under:-

“Public employment is considered to be a wealth. It in terms of the constitutional scheme cannot be given on descent. When such an exception has been carved out by this Court, the same must be strictly complied with. Appointment on compassionate ground is given only for meeting the immediate hardship which is faced by the family by reason of the death of the bread earner. When an appointment is made on compassionate ground, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion.”

As noticed the family was given special family pension equivalent to last pay drawn at the time of death upto superannuation of the deceased employee who had died in a terrorist incident. Solely because the petitioner has improved his qualification at a subsequent stage would not as such have absolute right to claim appointment for the second time in the executive branch of the State services on priority basis. Thus, there is no scope for interference with the impugned order dated 5.3.2015 in exercise of jurisdiction under Article 226/227 of the Constitution of India.

Accordingly, the present writ petition is dismissed.

March 03, 2016
Pka

(G.S.SANDHAWALIA)
Judge