

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

**CWP No.4956 of 2016
Date of decision: 16.3.2016**

Vinay Dadwal

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Saurabh Arora, 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. Father of the petitioner died in harness while working on the post of Junior Assistant in Government Senior Secondary school, District Hoshiarpur. The death of the breadwinner occurred in November, 2011. The petitioner applied for compassionate appointment in January, 2012 after completing his education and securing a degree in Bachelor of Education (B.Ed). The petitioner received a letter in December 2012 from the District Education Officer (S.S.) Hoshiarpur informing him that the policy of the Punjab Government dated July 13, 2012 restricted appointments on priority basis to Group C & D posts. The appointment in Master cadre sought for fell in Grade A service with a pay scale of Rs.10300-34800+5000. Accordingly, the petitioner's consent was sought if he agreed to take a job in Group C Service. The petitioner gave his consent to appointment as Clerk in Group C on priority basis by his consent letter dated February 27, 2012. The financial status of his mother

was called for who was then 54 years old. His case was rejected when it was found that the petitioner's mother was a teacher in a Government Aided School and receiving basic salary of Rs.20,720/- per month. The family was also in receipt of family pension from the deceased employee. The rejection letter is dated July 5, 2013.

2. Against the rejection, the petitioner represented to the State Government pleading that her mother was not getting the full salary from the school as her employer was a privately managed aided school. The mother complained that the student strength in the classes she taught was not complete due to which her salary was being deducted as per rules. She asked for reconsideration of the decision. Her request was considered and declined by affirming the previous decision dated July 5, 2013. The petitioner pleads that his mother did not lose hope and approached the Chief Minister Punjab with her representation during Sangat Darshan on September 11, 2015 and again on October 8, 2015. Her effort in Sangat Darshan was two-fold; one, that the management pay her full salary and two, her son be appointed on priority basis. She was informed that reduced salary was based on dwindling student strength and rules prescribe that where there are less than 30 students then Rule 67(1) of the Grant-in-Aid Rules justify deduction from salary. She was again informed that the previous rejection orders stand.

3. Mr. Saurabh Arora, arguing for the petitioner submits that Clause 11 of the policy instructions at Annexure P-11 do not rule out compassionate appointment in deserving cases where there is already an earning member of the family, then with prior approval of the Secretary

of the department concerned can offer appointment after consultation with the Department of Personnel, Punjab and on satisfaction grant of compassionate appointment is found justified having regard to the number of dependents, assets and liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

4. The instructions require extreme caution in assessing economic distress so that the facility of appointment on compassionate is not circumvented and misused by putting forward the ground that the member of the family already employed is not supporting the family. In this case, it is not visualized that the mother was not supporting her son, the petitioner on the death of the father/husband. The mother's real concern is of diminished salary and therefore, she is unable to support the family. If the mother of the petitioner was 54 years old in 2013 then she was above 52 years old when her husband died from which one could safely assume that the employee died in his early 50s and was not far from the age of retirement. When Government servants retire at the age of 58 years then in the mid 50s an employee will be assumed to have stocked his ladder from savings and investments and in such cases, the Court can distinctly assume a case against acute financial distress or sudden dislocation of income. The petitioner's mother was an earning member of the family who complains of reduced salary, when she is in receipt of family pension plus salary, although reduced. The widow did not have a large family to support with only two sons. At the time of

death of their father, the petitioner's elder brother was 22 years old while the petitioner was 19 years of age.

5. I then fail to see how Clause 11 of the Policy instructions helps the petitioner to qualify as a deserving case for compassionate appointment notwithstanding the mother remaining an earning member supporting the family. The financial status of the family at the time of the death has not been portrayed even in the petition or in the applications for ex gratia appointment from where it can be deduced a case of extreme financial distress. The petitioner's consent taken for group C posts may lead to an expectation or hope but it does not confer vested and accrued right to appointment. A legitimate expectation is one of the weakest of rights enforceable in Court in a service matter. No case for intervention in writ jurisdiction is made out.

6. For the foregoing reasons, there is no substance found in this petition warranting interference in the impugned order rejecting the petitioner's case for compassionate appointment. As a result, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

16.3.2016
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