

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5370 of 2016

Date of Decision: 21.03.2016

Taranjeet Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Arihant Goyal, 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.

1. The scope of interference in matters of compassionate appointment is no longer in doubt that it is meant to tide over acute financial stress a family faces when a bread-winner dies in harness. In this case, the death occurred on August 19, 2011 while working as Head Constable in Punjab Police at Mohali. The daughter of the late Head Constable was 17 years at the time and was studying and was not of employable age. She earned her academic qualifications in 2014 after qualifying the Senior Secondary Examination from the Punjab School Education Board, Mohali.

2. The department conducted a physical test to consider cases of compassionate appointments on December 02, 2014 for the post of Constable in 82 Battalion PAP, Chandigarh. She was found eligible. She was asked to produce her documents in original on the date itself including payment of requisite fee for the application. However, no action was taken

by the department which led her to submit a representation on March 14, 2015 stressing that she had already appeared in the trial in December 2014 and fulfilled all the conditions for appointment on compassionate ground being the only daughter of her parents. The petitioner is a member of the Scheduled Caste category falling in the Ramdasia caste.

3. When relief was not in sight she approached this Court for the first time by filing CWP No.20440 of 2015 which was disposed of by order dated September 24, 2015 directing the respondents to consider the legal notice dated May 25, 2015 served by her on the respondents and decide the same within three months by passing a speaking order.

4. She was informed vide memo dated December 07, 2015 that her case had been rejected which is the order impugned in this petition filed under Article 226 of the Constitution of India. The rejection is for the reason that the recommendations made in her case by the Field Office is not covered under the instructions. The order is non-speaking. However, a detailed order has been passed by the Inspector General of Police, Headquarters, Punjab dated January 27, 2016 declining the request made in the legal notice holding that mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crisis resulting from the employee's death.

5. It is an admitted fact that the mother of the petitioner is a serving the police department as an Assistant Sub Inspector of Police posted in District Fatehgarh Sahib. This is good and sufficient reason to decline request for ex gratia appointment on compassionate grounds. Besides, caste

has nothing to do with compassionate appointments and is irrelevant to the consideration

6. While dealing with compassionate appointments in CWP No.20609 of 2014 titled *Ravinder Kumar v. State of Punjab and others* decided on December 17, 2014 I had observed:-

"Misplaced sympathies in compassionate appointments have long been ruled out of consideration judicially. The case law on the subject principles is not necessary to be recalled only to embellish this order with the judicial trend of thought which is well embedded in the law and calls for no reaffirmation after they have been handed down from the highest Court for guidance in decision-making. If the Court has to sympathise and show compassion while trying to do justice in a case then it must leave all aside and first address itself to the plight of street children, the poor, the homeless, the lost and the forgotten who have had no advantage of descent and the biological euphoria of birth to a government servant whose service record is strangely never seen in policies of government in making exceptions to the rule that public appointments are to be constitutionally in order. The petitioner was lucky in his grief as his mother had provision for a sustainable life as an unfortunate widow rearing a single child but still held a comfortable pensionable government job with tidy salary. Much of humanity is far less fortunate than the petitioner. This case does not bring tears to my eyes, if tears are sufficient fuel for issuing a mandamus and for this reason alone interference is not called for in this case, otherwise the court's tear ducts will run dry.

In Bhawani Prasad Sonkar versus Union of India and others, (2011) 4 SCC 209 the Supreme Court observed:

"15. Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public

employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules..."

7. Consequently, no valid ground is made for interference in writ jurisdiction. I find no legal infirmity in the order passed by the Inspector General of Police, Headquarters, Punjab dated January 27, 2016 declining the request of the petitioner for compassionate appointment and would hereby dismiss the petition by upholding the order as legal as valid.

(RAJIV NARAIN RAINA)
JUDGE

21.03.2016
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