

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13888-2009 (O&M)
Date of decision: 22.09.2017

Jitender Kumar

....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. N.D. Achint, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, A.A.G., Haryana.

G.S. SANDHAWALIA, J. (Oral)

CM-15988-89-CWP-2015

The present applications have been filed for brining on record the legal representatives of the deceased-Jitender Kumar who expired on 23.09.2014 and also place on record the death certificate (Annexure A-1) and Aadhar Card (Annexure A-2) and for exemption from filing certified copies of the same.

The legal representatives of the deceased-petitioner have been mentioned in Paragraph-3 of the application and it has been averred that there is no other legal representatives. Resultantly, the application is allowed and the LRs mentioned in Para-3 are brought on record only for the purpose to pursue the present petition.

Amended memorandum of parties is taken on record.

Applications stand disposed of.

CWP-13888-2009

The petitioner is seeking directions to give appointment under the *Ex-gratia* Scheme at the time of death of his father as his mother had already been expired before the death of his father. As noticed the original petitioner who expired on 23.09.2014, was the son of the deceased-Chotu Ram. Deceased-Chhotu Ram was a Government employee in Govt. High School, Bakra Market, Ambala Cantt. and had himself expired on 19.02.1993 living behind two minor children including the deceased-petitioner (Jitender Kumar). A request from the deceased-petitioner had been received on 12.10.1999 (Annexure P-1) that he was 17 years old and he be given service but due to his minority the service could not be provided to him at the time of the request made initially in 1994. On 21.10.1999 the communication (Annexure P-2) was addressed to District Education Officer, Amabala in which it was mentioned that the matter may be kept pending and, thereafter action be taken.

It is the objection of the State now that even then the deceased, son of the original employee, had filed a petition bearing Civil Writ Petition No.19501 of 2005 (*Jitender Kumar Vs. State of Haryana*) according to which arrears of pension and other beneficial benefits was paid to the petitioner as mentioned in the order passed on 11.09.2006. At that stage, he never claimed *ex-gratia* appointment and, therefore, the writ petition is not maintainable. The wife of the deceased-petitioner does not fall within the terms of the Government instructions and, therefore, the writ petition was opposed. The appointment on compassionate basis is not a recognized mode of recruitment as such for employment and is only an exceptional.

Reference can be made to the judgments passed in '*Umesh Kumar Nagpal Vs. State of Haryana 1994 (4) SCC 138*' which have been followed in '*Shreejith L.V. Deputy Director (Education) Kerala and others (2012) 7 Supreme Court Cases 248*' and in '*Union of India and others Vs. Sima Banerjee, 23017(1) RSJ 351*'.

In these circumstances, the writ petition is not maintainable as such for the said relief and it is apparent that even after attaining the age of majority the deceased-petitioner had never sought his claim for appointment on compassionate grounds at that point of time due to changed circumstances, therefore, no further relief can be granted at this belated stage to his legal representatives.

The writ petition is dismissed.

September 22, 2017

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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No