

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

203-A

**CWP No.19316 of 2009 (O&M)
Date of Decision : 03.03.2017**

Shankar Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. K.S. Banyana, Advocate
for the petitioner.

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

AJAY TEWARI, J. (Oral)

By this petition the petitioner has challenged the letter dated 16.09.2008 (Annexure P-4) whereby his request for compassionate appointment has been rejected.

Brief facts of the case are that father of the petitioner was appointed with the respondent department as Cook who expired on 14.12.1995 while he was in service. The mother of the petitioner requested the respondent department to reserve a post of Class-IV for

the petitioner as he was 6 years old at that time. The petitioner attained majority in the year 2008 and claimed compassionate appointment but his claim was rejected and that is why he is before this Court.

Learned counsel for the petitioner has fairly accepted that the petitioner now can not claim compassionate appointment in view of the decision of the Supreme Court in the matter of ***Union of India and others vs. Sima Banerjee, passed in Civil Appeal No.251 of 2017, decided on 10.01.2017.*** However, he claims that he would have to be given the benefit of ex-gratia compensation in terms of the 2006 policy.

Learned Assistant Advocate General however points out that as a matter of fact the petitioner's claim would have to be rejected in view of the instructions of 1999 as per which compassionate appointment could be given only to those eligible persons who applied within three years and since as per the case of the petitioner he was 6 years old at the time of death of his father he could not apply within that prescribed period and that instructions was also forwarded to the mother of the petitioner.

Learned counsel for the petitioner on the other hand points out that when his father had died his mother had applied in the year 1996 and requested for keeping one post reserved for the petitioner. Further

there was a practice prevalent in the State of Haryana to this effect and there are innumerable cases where in fact jobs were reserved and given to the dependents when they became eligible and that is why the Director General of Police directed the Superintendent of Police to send the case of the petitioner on his attaining the age of majority against one reserved post of Class-IV and handed over a copy of that letter (Annexure P-1) to the mother of the petitioner. Consequently, at that time the mother of the petitioner was sanguine that the petitioner would be given a job as and when he become eligible. At no stage did the respondents ever disclose to the petitioner or his mother about the fact that he was ineligible for seeking the job since he could not apply within three years due to his minority. Even when the petitioner attained majority he constantly made rounds of the offices and he was always assured that his case would be considered and it was only in 2008 that he developed the courage to write letter seeking his appointment and it was only then that by letter (Annexure P-4) he was informed that in fact he was not entitled to any benefit. As per the learned counsel, in these circumstances the respondents can not take the plea of delay to deny even the benefits of ex-gratia compensation to the petitioner.

In the considered opinion of this Court, the argument of

learned counsel for the petitioner has more weight. Had the respondents taken care to inform the mother of the petitioner immediately in the year 1999 that the post could not be reserved for her son she could immediately take the job herself because she in any case was eligible at that time. As per the written statement, the Superintendent of Police Gurgaon had sent a PRM to the Superintendent of Police, Tiri Garhwal, UP to inform about the instructions that petitioner could not be given a job and his mother could be considered for a job. However, there is no averment that the mother of the petitioner was actually informed by the Superintendent of Police, Tiri Garhwal, UP. In my opinion, the mere fact that one officer deputed another officer to inform the mother of the petitioner cannot be taken to be as due service. The omission of the respondents to inform the mother of the petitioner about the policy of 1999 or about the fact that for her son one post could not be kept reserved now disentitles them to take this technicalistic plea about the non-entitlement of the petitioner.

In the circumstances, though the prayer for compassionate appointment is rejected yet the respondents are directed to now consider the case of the petitioner for ex-gratia compensation as per the 2006 policy. Let the needful be done and the ex-gratia compensation be paid

to the petitioner and his mother in equal share alongwith interest @ 8% from the date of rejection of his case i.e. 16.09.2008 within a period of three months from the date of receipt of a certified copy of this order, failing which, the petitioner and his mother would be entitled to claim the same with interest @ 12% per annum from today.

Petition stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

March 03, 2017
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No