

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

CWP No.2669 of 2009

Date of Decision:27.03.2017

Sh. Ashok Kumar

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Aditya Yadav, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

P.B. BAJANTHRI J. (Oral)

In the instant petition, the petitioner has questioned the validity of order dated 7.4.2005 and 5.9.2008 (Annexure P-7 and Annexure P-11 respectively).

The petitioner's father died on 20.12.1991 while he was in service. The petitioner was facing criminal proceedings initiated in the year 1997 which was pending consideration. The official respondents issued order of appointment to the petitioner on 29.12.2004 on compassionate ground. When they verified the antecedents of the petitioner, they found that the petitioner was facing criminal proceedings. Based on the said factual aspect, the official respondents proceeded to withdraw the order of appointment on 7.4.2005. When things stood thus, on 28.11.2007, the petitioner is stated to have acquitted in the criminal case. In view of the later development, petitioner's mother submitted an application to the competent authority to re-issue order of appointment to the petitioner. The same was rejected. Consequently, the petitioner himself submitted a representation on 12.8.2008 and it was also rejected on 5.9.2008.

Learned counsel for the petitioner vehemently contended that

the petitioner has acquitted in the criminal case. Consequently, as per the Government instructions, the petitioner is entitled for re-appointment on account of acquittal in the criminal case. It was further submitted that the petitioner has not been provided even financial assistance.

Per contra, learned counsel for the respondents submitted that the petitioner while making an application for compassionate appointment suppressed the fact that the petitioner was facing criminal proceedings as on the date of making an application for compassionate appointment. During the verification of the antecedents of the petitioner, it was found that the petitioner was facing criminal proceedings. Thus, the respondents have proceeded to withdraw the order of appointment. Even though the petitioner is acquitted in the criminal case, he is not entitled for compassionate appointment for the reasons that the the petitioner has not approached the official respondents with clean hand as he has suppressed the fact that the he was facing criminal proceedings as on the date of making application for compassionate appointment. Insofar as financial assistance is concerned, learned counsel for the respondents submitted that in the year 2004, the respondents have offered a sum of Rs.2.5 lacks as financial assistance. Petitioner has refused to accept it.

Heard learned counsel for the parties.

Short question for consideration in the present petition is whether the petitioner is entitled for compassionate appointment or not?

Even though the petitioner was appointed on compassionate ground but the petitioner while joining the police department suppressed the fact that he was facing criminal proceedings. On this count itself the petitioner is not entitled for compassionate appointment. Further the

petitioner's father died on 20.12.1991. He was given appointment on 29.12.2004 and the fact that the petitioner was subjected to criminal proceedings in the year 1997 and he was acquitted only on 28.11.2007, therefore, he should have disclosed the pendency of criminal proceedings to the official respondents while seeking appointment on compassionate ground. On the ground of suppression, the petitioner is not entitled for appointment on compassionate ground and there is no infirmity in rejecting the claim of the petitioner so also no interference is called for in respect of order dated 7.4.2005 withdrawing the order of appointment. Moreover right to compassionate appointment is not a fundamental right.

If the petitioner's mother makes necessary application to the official respondents, the financial assistance would be considered by the official respondents-competent authority within a period of three months from the date of receipt of such application.

Petition stands disposed of with the above observation.

27.03.2017
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**