

CWP No. 14359 of 2014(O&M)

Sr.No.213

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP No. 14359 of 2014(O&M)

Date of Decision:27.03.2017

Raksha Devi

.....Petitioner

vs.

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr.U.K.Agnihotri, Advocate for the petitioner.
Mr.Keshav Gupta, AAG, Haryana.

**

KULDIP SINGH, J(ORAL)

The petitioner has sought the issuance of a writ in the nature of certiorari for quashing the impugned order dated 29.09.2011 (Annexure P7) passed by Director General of Police, Haryana vide which his claim for Compassionate Employment was declined. He also seeks a writ in the nature of mandamus for directing the respondents to release Rs.2,50,000/- as Financial Assistance under Ex-gratia Scheme.

Facts of the case are that Desh Bandhu (husband of the petitioner), Constable in Haryana Police died in harness on 26.04.2001 after he suffered a heart attack. On 22.05.2001, petitioner applied for employment under the Ex-gratia Scheme vide application Annexure P1. Petitioner was informed vide letter dated 17.05.2002 (Annexure P2) to attend the office of Inspector Welfare in the office of Superintendent of Police, Panchkula in connection with appointment / physical measurement under the Ex-gratia scheme at the earliest. According to the petitioner, her name was placed at serial no.24 on

CWP No. 14359 of 2014(O&M)

17.05.2002, in the list of appointment under the Ex-gratia Scheme. Lateron, vide letter endorsed on dated 30.08.2003(Annexure R1), petitioner was informed that she cannot be offered a job under the Ex-gratia Scheme due to overage, therefore, she was requested to send the option for Rs.2,50,000/- as Compassionate Assistance. This was followed by another letter dated 08.09.2003 (Annexure R2) and another letter dated 24.10.2003 (Annexure R3). In response to the said letters, the petitioner replied vide letter dated 10.03.2004(Annexure R4) that she has got no source of income, therefore, she wants job instead of Financial Assistance of Rs.2,50,000/-. Therefore, a request was made to provide the job.

It further comes out that vide letter of DGP, Haryana dated 06.10.2004, her request for Ex-gratia employment was found as time barred under clause 6(1)(b) of Haryana Compassionate Assistance the Dependants of deceased Govt. Employees Rules, 2003 (for short, the rules of 2003). Against the said letter, petitioner made the representation dated 22.02.2005 (Annexure P5) for reviewing / reconsidering the said order endorsed on 06.10.2004, but no response was received. Thereafter, petitioner addressed another communication dated 24.05.2011 (Annexure P6) i.e approximately after six and a half years for grant of Compassionate Employment / Ex-gratia lump sum payment. Thereafter, her request was declined vide impugned order endorsed on 29.09.2011(Annexure P7) intimating that her request has already been declined in 2004. Thereafter, the present petition was filed in July 2014 seeking quashing of the said order.

The State, in the reply, has taken the stand that despite letters Annexure R1 to R3, petitioner did not send option for Compassionate Financial Assistance of Rs.2,50,000/-. It was further stated that earlier her

CWP No. 14359 of 2014(O&M)

name was included in the seniority list at serial no.24 waiting for class IV employment under the Ex-gratia Scheme. As there was no vacancy in class IV, the said letters Annexure R1 to R3 were addressed to the petitioner. However, she insisted for Compassionate Employment. It is further stated that under clause 6(1)(b) of the Rules of 2003, the said request expired after lapse of period of three years.

I have heard the learned counsel for the parties and have gone through the record carefully.

It comes out that the petitioner was insisting of Compassionate Employment. Her request was declined for the first time in 2004. Petitioner remained silent and made the representation dated 22.02.05 (Annexure P5) for review of the said order. When no response was received, then petitioner addressed another communication dated 24.05.2011(Annexure P6), requesting for Compassionate Employment / Ex-gratia Scheme. It was in response to this matter that she was informed about the earlier decision endorsed on 06.10.2004.

At the very outset, it comes out that the mere fresh application for compassionate employment / Ex-gratia Financial Assistance will not condone the delay in moving to this Court. The respondent / department has categorically denied the application of the petitioner being time barred on 06.10.2004. This finds reference in the subsequent representations of the petitioner. Petitioner remained mum for nearly 10 years. Even after her last claim was rejected on 19.08.2011, she filed the present petition only in July 2014 i.e when three years period was about to elapse. Therefore, the petition is badly barred by delay and laches.

Coming to the Rules of 2003 for Compassionate Employment or

CWP No. 14359 of 2014(O&M)

Compassionate Financial Assistance, it comes out that under Rule 4 of the said Scheme, petitioner was required to prefer the optionn within three years whether she wants Ex-gratia employment or Ex-gratia Financial Assistance which she did. The option could be exercised once. Thereafter, when the Government felt that there is no vacancy of class IV, she was asked to opt for Financial Assistance which she refused in the year 2004. Under Rule 6(1)(b) of the Rules, the list for Compassionate Employment remains valid for three years. Since the period of three years has elapsed, the list also elapsed. Thereafter, after passing of more than 10 years, petitioner cannot be allowed to submit fresh option for Financial Assistance as she could opt only once for one Scheme.

It being so, there are no merits in the present petition, the same is, accordingly, dismissed.

March 27, 2017
mamta

(KULDIP SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No