

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 81 of 2016
Date of Decision: June 01, 2017

Nirmal Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present: Mr. Ajay Chaudhary, Advocate,
for the petitioner.

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

P.B. Bajanthri, J. (Oral)

1. Mr. P.K. Jindal, Executive Engineer, Provincial Division No.2, PWD (B&R) Sirsa is present in Court and has filed an affidavit relating to action taken by the Department during the intervening period from 31.01.2006 to 31.07.2006. There is no proper explanation to the extent that Department had asked the petitioner to furnish succession certificate. Therefore, there is no delay on the part of petitioner in furnishing succession certificate. Concerned respondent is hereby directed to pass an order of appointment on compassionate ground for class IV post on notional basis and place it on record by the next date of hearing.

2. At this stage, learned State counsel resisted for issuance of order of appointment. Hence, matter heard on merits.

3. In the instant writ petition, petitioner has questioned the order dated 01.09.2015 (Annexure P/3) by which respondents have rejected his

claim for compassionate appointment as well as financial assistance.

4. Petitioner's father late Sh. Hazara Singh, who was working as Chowkidar in the office of respondents, died on 13.01.2006. Petitioner is stated to have submitted application for compassionate appointment, which was not considered between 31.01.2006 to 31.07.2006. Only in the month of August, 2006, respondents insisted petitioner for furnishing succession certificate. Thus, it is evident that respondents have slept over the petitioner's grievance during the intervening period from 31.01.2006 to 31.07.2006. Later on, grievance of the petitioner was rejected on 01.09.2015 that to after disposal of petitioner's writ petition i.e. CWP No. 25697 of 2012. Before passing speaking order for compliance of order passed in CWP No. 25697 of 2012, petitioner was compelled to file contempt of court petition. During pendency of contempt petition, speaking order dated 01.09.2015 has been passed. Having regard to dates and events, it is evident that petitioner's name has not been considered for compassionate appointment. Hence, present writ petition.

5. Learned counsel for the petitioner submitted that within time limit stipulated for the purpose of claiming compassionate appointment, necessary application was moved by petitioner before the Department. Due to lapse on the part of respondent-Department from time to time, compelling the petitioner to file writ petition and contempt of court petition. Therefore, order dated 01.09.2015 (Annexure P/3) declining to extend the benefit of ex gratia appointment under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 which was issued on 01.08.2006 is highly arbitrary. It was submitted that as on 01.08.2006 petitioner's claim relating to compassionate appointment was

pending consideration, therefore, it is bounden duty of the respondents to consider petitioner's claim for compassionate appointment.

6. Per contra, learned State counsel submitted that petitioner is not entitled for compassionate appointment as he has not produced succession certificate, therefore, there is a delay in consideration of petitioner's claim for compassionate appointment. Since petitioner's father died on 13.01.2006 and petitioner's claim was remain pending consideration upto 01.09.2015 due to lapse of time, petitioner is not entitled for employment on compassionate ground.

7. Heard learned counsel for the parties.

8. Undisputedly, petitioner's father died on 13.01.2006. In the year 2006 itself, petitioner has submitted application for compassionate appointment. For want of succession certificate, concerned respondent has not passed any order either accepting or rejecting petitioner's claim for compassionate appointment so also has not demanded succession certificate that petitioner is required to produce. There is no explanation on behalf of respondents relating to demand of succession certificate. For non-consideration of petitioner's claim, petitioner was compelled to approach this Court in CWP No. 25697 of 2012. This Court was pleased to direct concerned respondent to consider grievance of the petitioner with reference to legal notice. Thereafter, respondents have not passed any order. Consequently, petitioner was compelled to file COCP. During pendency of COCP, Executive Engineer passed an order on 01.09.2015 rejecting petitioner's claim. From the conduct of the respondents it is evident that petitioner's claim has not been considered timely in respect of demanding succession certificate and other requirements. Even after submission of

succession certificate, respondents have slept over the matter. Petitioner was compelled to file CWP No. 25697 of 2012 as well as COCP and the present writ petition.

9. In view of the above facts and circumstances, instant writ petition stands allowed. Order dated 01.09.2015 (Annexure P/3) is set aside. Concerned respondent is hereby directed to issue necessary order of appointment to the petitioner in class IV post on notional basis. Having regard to conduct of respondents, they are liable to pay costs of Rs. 20,000/-. Cost shall be paid to the petitioner.

June 01, 2017
vkd

[P.B. Bajanthri]
Judge

Whether speaking / reasoned : Yes

Whether reportable : Yes