

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

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**CWP No.4808 of 2017.
Date of Decision: 31.08.2017.**

Shanti Devi and another

....Petitioners.

Versus

State of Haryana and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ravi Sharma, Advocate for the petitioners.

AMOL RATTAN SINGH, J. (Oral)

Learned counsel for the petitioner submits that as a matter of fact the order of the respondents, (referred to in the order of a co-ordinate Bench of this Court, passed in COCP No.1065 of 2015 on 12.02.2016) is already on record as Annexure-P9, which is dated 24.03.2009.

A perusal of the said order shows that Shri Prem Chand, father of petitioner No.2 (husband of petitioner no.1), died while in service as a Tracer in the Office of the Assistant Soil Conservation Officer, Sadhora, on 15.03.2003, before which the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, had been notified on 28.02.2003.

As per the aforesaid order (Annexure-P9), petitioner no.1 had been informed that her case for compassionate appointment on the death of her husband had been forwarded to the competent authority, but thereafter she had requested that on account of her ill health, her son (petitioner no.2),

then aged 16 years, be granted such compassionate appointment (as and when he came of age).

However, she was informed that as per the seniority list maintained for granting such compassionate appointment, her son's chance for appointment was not likely to come up within a period of three years, i.e. the time period during which compassionate appointment could be granted after the death of an employee, he being at serial no.12 of such seniority list, and therefore, she was entitled to take ₹2.5 lakhs as financial assistance, for which she may send her consent.

However, petitioner no.1, thereafter again requested for appointment of her son on compassionate basis, vide her letter dated 30.08.2006, which is stated to have been forwarded to the competent authority (as per the order Annexure-P9), but in response thereto again, vide letters dated 10.11.2006 and 31.01.2007, she was asked to send her option to accept ₹2.5 lakhs as financial assistance in place of employment.

Lastly, it has been stated in the order that the dependents of another deceased employee, Shri Dharam Singh, Statistical Assistant, who had a prior right of appointment (presumably because Dharam Singh died prior to the husband of petitioner no.1, i.e. Shri Prem Chand), had also not been given any appointment, and therefore, Dharam Singh's dependents had also been sanctioned ₹2.5 lakhs as financial assistance.

Yet further, it has been stated that in response to the 1st petitioner's application dated 25.08.2003, ₹2.5 lakhs were sanctioned on 09.01.2008 in terms of the provisions of the Rules of 2003 and a demand draft was also forwarded to her.

Learned counsel for the petitioners, at this stage, submits that the option for either an appointment to family member of the deceased or for financial assistance in lieu thereof, was to be exercised once, and therefore, the 1st petitioner not having accepted financial assistant the first time itself, the respondents were bound to grant her or her son such appointment.

The contention is rejected, in view of the fact that a specific period of three years, for giving employment to a family member of a deceased employee has been stipulated in Rule 4 of aforesaid Rules of 2003; i.e. the appointment must be made within three years from the date of death of a government employee.

Thus, no person having been shown to have been appointed out of turn, and it also not having been shown that any vacancy actually arose to which either of the petitioners could have been appointed within a period of 3 years of the date of death of Prem Chand, I see no reason to entertain this petition at this stage, 14 years after his death, it having been well settled in **Umesh Kumar Nagpal vs. State of Haryana (1994)4 SCC 138**, that granting appointment on a compassionate basis is to tide over the immediate hardship that falls on the family of an employee who unfortunately dies in service, and it is not a right which would continue to enure for a long period of time.

Hence, though very obviously any person who loses a family member and that too the breadwinner, obviously needs sympathy, however, on the ratio of the aforesaid judgment, consistently followed thereafter, this petition seeking a relief that should have been sought atleast 10 years earlier, as already said, cannot be entertained and is therefore dismissed.

However, though the petitioners are stated to have returned the demand draft of ₹2.5 lakhs stated to have been sent by the respondents, even so, upon an application made at this stage also, for release of ₹2.5 lakhs, the said amount would be released within three months from the date of receipt of such application.

It needs to be said that though the claim for financial assistance of ₹2.5 lakhs may also be rather belated, however, since no interest is to be paid upon the said amount, the petitioners specifically having refused to accept the amount at that stage, (in the hope that petitioner no.2 would be given appointment on compassionate basis), I see no reason to deny them such financial assistance as would have been payable at that stage, without interest even at a later stage.

(AMOL RATTAN SINGH)
JUDGE

31.08.2017
jitender sharma

Whether speaking/ reasoned : Yes

Whether Reportable : Yes