

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.10492 of 1999 (O&M)

Date of Decision: 16.05.2018

VED PRAKASH

...Petitioner

Vs.

HARYANA STATE ETC.

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Parunjeet Singh, Advocate for the petitioner.
Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. This petition has to fail for the following reasons:

(i) The petitioner's father died in harness on 21.08.1996 when the instructions of 08.05.1995 were prevailing. In terms of these instructions, compassionate appointment could be given only to a dependant on a post one step lower than the post held by the deceased government employee. Clause-(i) of the 1995 policy which reads as under:-

i) Ex-Gratia employment shall be confined to Class-III and class-IV posts only irrespective of the status of the deceased employee. Further, the compassionate employment being offered shall be at least one step lower than that of the deceased employee was working at the lowest level in the Government.

This provision is to be read with Clause 6 of the subsequent

policy instructions dated 31.08.1995 which reads as under:

6. *One step Lower employment is interpreted as 'One Pay Scale below' that of the deceased employee.*

It is further clarified that appointment on compassionate grounds under ex-gratia scheme can be offered only on a post in a pay scale lower than that of the deceased employee.

(ii) The petitioner's father's functional scale at the time of death was Rs. 1200-2040/-. It is another matter that due to Higher Standard Pay-scales on completion of 20 years of service his salary was upped to the scale of Rs. 1400-2600/-. This means that substantive post and pay-scale would be such as would entitle the petitioner to compassionate appointment to a post in the pay-scale lower, that is, the functional pay-scale of Rs. 750-940/-

(iii) The petitioner was appointed on compassionate grounds as a Peon in the pay-scale of Rs. 740-940, and therefore no error was committed by the authorities. The petitioner's father was working on a Class-III post as Lab Assistant while the petitioner was appointed on the Class-IV post of Peon i.e. one step lower in terms of the Policy prevailing at the time of death.

(iv) The relief claimed in terms of decision in CWP No. 4237 of 1999, Kanta Rani Vs. State of Haryana and others and the same has been placed at Annex. P-13 but the same is of no avail to the

petitioner. In Kanta Rani the question involved was not of an employee in a lower scale getting Higher Standard pay-scale on completion of 20 years of service and therefore the case is distinguishable on facts. The claim was restricted to the pay-scale of Rs. 950- 1500 which was denied to Kanta Rani and was restored by the Division Bench. The Court recognized the principle laid down by this Court earlier in case Rajiv Deswal Vs. State of Haryana and others, 1999 (1) RSJ 47 that dependant of a deceased employee was entitled to be appointed on compassionate grounds on the post carrying one pay-scale lower than that of the deceased employee. The ratio of the decision in fact counters the argument advanced by the petitioner himself.

2. I would, therefore, find no reason to interfere in the matter or quash the order dated 02.06.1999 declining representation of the petitioner for appointment on compassionate grounds on a Class-III post in the pay-scale of Rs.1400-2600, which the father of the petitioner was getting at the time of his death due to benefit of the Higher Standard Pay Scale. If such a relief is granted to the petitioner it could impinge on the policy dated 08.05.1995.

3. As a result of the above discussion, the petition is dismissed.

(RAJIV NARAIN RAINA)
JUDGE

16.05.2018

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Whether speaking/reasoned : Yes
Whether reportable : No