

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6347 of 2006

Date of Decision: 08.05.2018

Vikram Singh

...Petitioner

Vs.

The State of Haryana and others

...Respondents

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

Present: Mr. Durga Dutt Sharma, Advocate,
for the petitioner.

Mr. Gagandeep Singh Wasu, Addl. AG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner's father was prematurely retired from service on medical grounds on 08.04.2002. The petitioner was 18 years old at that time. He claimed compassionate appointment on ground of the unfortunate situation. His claim was rejected by the order dated 10.10.2005 citing the policy instructions of State Government dated 28.02.2003 and the employment case was returned with the remarks that a fresh case be submitted as a period of 2½ years had elapsed. Against this order, the petitioner has approached this Court.

2. Learned counsel for the petitioner relies on the policy instructions (annex. P-4) dated 23.11.1992 on the subject of facilities to the families of the employees who become incapacitated during service and for providing employment to the dependents of the employees who become blind and incapacitated. The policy ensures employment to only

one dependent out of the dependents of the family.

3. Upon notice, the respondents have filed their reply in which an additional reason is assigned which is that Government has not promulgated any provision in respect of awarding relief of ex gratia appointment to the dependent of disabled employee, and on the other hand, the Government has issued notification dated 20.02.2003 (Annex. P-11) whereby government has framed Rules called the Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2003. In these Rules, the stand is that there is no provision for awarding relief to persons like the petitioner. The Repeal and Savings Clause of the 2003 Rules does not affect the operation of the instructions dated 23.11.1992 issued by the Chief Secretary to Government, Haryana, and, therefore, those special instructions prevail till date and stand outside the policy instruction of 2003, as they did at the relevant time when the case was moved for consideration of the higher authorities for appointing the petitioner on compassionate grounds.

4. Similar issue came up before the Division Bench of this Court in CWP No. 6879 of 2004, titled Beer Singh and another Vs. The State of Haryana and others decided on 16.08.2005 in which the following order was passed:

“The petitioner's husband has been rendered medically unfit on account of some disease. The petitioners have accordingly sought compassionate

appointment on account of the unfortunate situation. The respondents have declined the petitioner's claim on the ground that as per the latest policy Annexure P-11 dated 28.02.2003 no compassionate appointment could be given with respect to employees who had been rendered medically unfit. It is however the petitioner's case that the policy Annexure P-10 specifically applied to the facts of the present case.

We have heard the learned counsel for the parties and have also gone through the record.

A bare perusal of the policy Annexure-P-11 dated 28.02.2003 would reveal that it deal with the appointment on compassionate grounds to heirs of a Government employee who died while in service. Admittedly, the petitioner No.1 has been rendered medically unfit. We, thus, find that the policy Annexure P-11 would not be applicable in this case. We accordingly direct the respondents to reconsider the case of the petitioner in the light of policy Annexure P-10 within a period of four months from the date that a certified copy of this order is supplied to them.”

5. The stand taken by the State in the written statement is not the correct one on the subject matter completely ignoring the policy instructions dated 23.11.1992 and is accordingly overruled in view of statement of law in Beer Singh' case (supra).

6. It may be noticed for convenience that Annex. P-10 mentioned in the order dated 16.08.2005 is Annex. P-4 in this petition, while Annex. P-11 is retained as Annex. P-11 in this petition.

7. The facts of this case are the same as were considered and

decided by the Division Bench and accordingly, this petition is allowed and a direction is issued to the respondent to reconsider the case of the petitioner in the light of the policy Annex. P-4 within a period of 3 months from the date of receipt of certified copy of the order.

08.05.2018
kv

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned : *Yes*
Whether reportable : *No*