

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9638 of 2006 (O&M)

Date of Decision: 22.02.2018

Sunil Kumar and another

...Petitioner

Vs.

The State of Haryana and another

...Respondents

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

Present: Mr. A.K. Bishnoi, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

As far as petitioner No.1 is concerned, he has apparently surrendered his right to compassionate appointment as a Constable by not accepting the offer made to him to join the post. His mother, petitioner No.2-Khazani Devi exercised that option for him as she must have thought that employment opportunity was a far better deal than financial assistance of Rs 2.5 Lakhs under the policy dated 28.02.2003. Clause 4 (2) of the Policy provides that exercise of option shall be permitted only once and shall not be changed after it is exercised once. Clause 14 further provides that in case offer is not acceptable, no further claim shall be entertained. Clause 14 is a guard against the propensity to claim higher post which desire has been ruled out for good reason since the purpose is to tide over immediate hardship caused by death of the breadwinner and not to help make a career. All compassionate

appointments are in violation of Articles 16 (1) and 14 of our Constitution.

Petitioner No.1, the son of petitioner No.2 having lost his right to appointment by act of not accepting the offer, the mother can always fall back on financial assistance under the 2003 Rules as a pending case and therefore, the impugned order dated 03.10.2005 rejecting the case for financial assistance is not a correct interpretation of Clause 4 (2) and Clause 14 of the policy.

The mother could always have claimed financial assistance as a matter of right which was one of the two alternative measures of compassion provided by the Policy. The impugned order reads the policy in a narrow, wrong and literal angle which if accepted would defeat the objectives of the policy and accordingly, in the view of this Court, the impugned order is not legally sustainable and deserves to be set aside to bring home a tidy sum of ₹ 2.5 lacs to petitioner No.2.

To that extent, petition is allowed. The amount of financial assistance be disbursed to Khazani Devi-petitioner No.2 within two months from the date of receiving of the certified copy of this order or the same being supplied to the department, whichever is earlier.

Since the interpretation of the rules in the Policy was involved before this Court, with the respondent State resisting such an interpretation and the Court taking the view in favour of the petitioner, award of interest does not appear to be justified in this case on the

principal amount.

22.02.2018

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(RAJIV NARAIN RAINA)
JUDGE

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