

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP- 13254-2016

Date of Decision : October 16, 2018

Rajesh Kumar

.... Petitioner.

Versus

Food Corporation of India and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Ms. Puja Chopra, Advocate
for the petitioner.

Mr. J.S. Puri, Advocate,
for respondents No. 1 and 2.

Mr. Deepak Verma, Advocate,
for Mr. Shubhashish Kukreti, Advocate,
for respondent No.4.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is issuing directions to respondents No. 1 to 3 to take legal action against respondent No. 4 for his illegal, fraudulent and unlawful acts and omissions.

2. As per the petitioner, his father, namely Banshu Ram was working as Handling Labourer in the respondent-Corporation, who died on 10.2.2006. Declaration form submitted by the father of the petitioner towards the Employees Pension Scheme, 1971 and towards Contributory Provident Fund of respondent-Corporation are on the file at Annexures P/1

...

and P/2. After the death of the father of the petitioner, the petitioner being the eldest son, was entitled to get appointment on compassionate grounds. However, respondent No. 4 submitted false application dated 26.6.2008 (Annexure P/3) and false affidavit dated 20.6.2008 (Annexure P/4) and obtained job on compassionate grounds. As per the petitioner, respondent No. 4 had concealed the name of the petitioner and as such, played the fraud. The petitioner made a representation on 11.7.2013 (Annexure P/5), but respondent no. 2 did not take any action and as such the present writ petition before this Court.

3. In the reply having been filed by respondents No.1 and 2, preliminary objection was taken that the present writ petition has been filed by the petitioner after a lapse of three years as respondent No. 4 was appointed on compassionate grounds on 23.2.2013. He had produced Dependency Certificate dated 21.05.2008 (Annexure R/1-2) issued by Deputy Commissioner, Patiala and also joint affidavit of the family dated 24.6.2008 (Annexure R/1-3). After completing the formalities, respondent No. 4 was appointed on compassionate basis. In the pension form, Annexure P/1, the name of the petitioner was mentioned, but the latest position with regard to surviving dependents was to be considered and after considering the same, job was given to respondent No. 4 as the petitioner had never applied for the job nor he filed any objection to the appointment of respondent No. 4, which was made on 23.2.2013. Representation, Annexure P/5, was submitted by the petitioner and he was called for personal hearing vide letter dated 31.8.2013, but he did not turn

...

up.

4. At the time of arguments, learned counsel for the petitioner contended that the petitioner being the eldest son of the deceased was entitled to be appointed on compassionate grounds and respondent No. 4 has mis-represented the facts.

5. Learned counsel for respondents No.1 and 2 had taken a stand that the petitioner never approached the respondent-Corporation and even after issuance of notice for personal hearing on 31.8.2013, he had not put in appearance and job was given on compassionate grounds on the basis of Dependency Certificate dated 21.05.2008 (Annexure R/1-2) issued by Deputy Commissioner, Patiala and also joint affidavit dated 24.6.2008 (Annexure R/1-3) by the family members.

6. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that the matter in controversy involves the substantial questions of facts and recording of evidence to be led by both the parties in support of their respective claims, which cannot be ascertained while exercising the writ jurisdiction of this Court and the present writ petition is disposed of. However, the petitioner can avail his alternative remedy available to him under the laws.

(SHEKHER DHAWAN)
JUDGE

October 16, 2018.

som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes