

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

CWP-5745-2011 (O&M)
Date of decision : 11.12.2018

Gurmeet Kaur and another

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.K. Arora, Advocate,
for the petitioners.

Ms. Bhavna Gupta, DAG, Punjab.

Mr. Jatinder Nagpal, Advocate,
for respondent No.3.

JITENDRA CHAUHAN, J.

Prayer in the instant petition filed under Articles 226/227 of the Constitution of India is, *inter alia*, for quashing of the order dated 27.04.2010 (Annexure P-10), whereby, respondent No.3 was appointed on compassionate grounds as contingency paid cook, without considering the claim of petitioner No.2.

Before delving further, it is to be noticed that marriage between deceased-Gurdeep Singh and Jaswant Kaur-mother of respondent No.3, was solemnized on 29.06.1969. During the subsistence of first marriage, the deceased solemnized marriage with petitioner No.1. Petitioner No.2 is the son born out of the relationship between petitioner No.1 and the deceased. It has also come on record that the marriage between deceased-Gurdeep Singh and Jaswant Kaur, the first wife, was never dissolved by any decree

of divorce.

Learned counsel for the petitioners refers to copy of decree-sheet dated 10.08.2006 (Annexure P-1) passed by learned Civil Judge, Junior Division, Patiala, to contend that the learned Civil Court had declared petitioner No.2 as one of the legal representatives of deceased Gurdeep Singh. Despite the competent Court's declaration, claim of the petitioner for appointment against the policy of compassionate appointments was not considered. It is contended that the claim of the petitioner was rejected and the post was offered to respondent No.3 on the legal opinion tendered by the office of the Advocate General.

On the other hand, learned State counsel submits that respective claims of petitioner No.2 as well as respondent No.3 were considered by the authorities in the light of judgment and decree passed by learned civil Court and ultimately, respondent No.3 was given appointment as per the rules.

Learned counsel for respondent No.3 submits that petitioner No.1 is not the legally-wedded wife of the deceased, therefore, the petitioners are not entitled to any benefits of service.

Heard.

This is not the case of the petitioners that petitioner No.2 is the sole legal representative of the deceased Gurdeep Singh. The decree passed by the Civil Court is only to the extent of consideration of claims of petitioner No.2 as well as respondent No.3. After consideration, the claim of respondent No.3 was found to be admissible and accordingly, he was issued appointment letter.

During the course of arguments, learned counsel for respondent

No.3 has submitted that the entire estate of the deceased was in the possession of the petitioners, which was sold out by them and out of the sale proceeds, purchased land in their own names. At this stage, there is no rebuttal from the petitioner in this regard. Otherwise also, the Court is not inclined to go into this question at this stage.

There is no dispute with regard to respondent No.3 being the legal representative of the deceased. Upon consideration, he was found suitable and accordingly, consequential order of appointment was passed, which cannot be said to be bad in law. The petitioners have failed to show that petitioner No.2 has any preferential right over respondent No.3 to claim compassionate employment. Plea of the petitioners that petitioner No.2 being younger in age and possessing higher qualification is entitled to be considered under priority list, is not tenable, since respondent No.3 had already been given Class-IV contingent employment and the appointment against the policy can be offered only to one member of the family. Further, the services of respondent No.3 have already been regularized vide order dated 18.09.2012 (Annexure P-11).

In view of the above discussion, this Court is of the considered opinion that the instant petition is devoid of any merit and the same is, hereby, dismissed.

11.12.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No