

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

CWP-770-2015

Date of decision-05.09.2018

Kulwant Singh

....Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. V.K.Shukla, Advocate for the petitioner.

Ms. Kanica Sachdeva, AAG, Punjab assisted by
Mr. Bharat Bhushan, Legal Assistant,
District Education Office, Moga.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ, in the nature of certiorari/mandamus for setting aside the impugned order dated 19.03.2013 (Annexure P-3) whereby claim of the petitioner for appointment on compassionate grounds has been declined.

It is asserted that the father of the petitioner was Chowkidar-cum-Peon in Government Senior Secondary School (Boys), Badhni Kalan (Moga). He died in harness on 14.08.2012. It is further submitted that the deceased has left behind his wife and three sons including the petitioner. The other two sons of the deceased are labourer and mother of petitioner is working as sweeppress, therefore, the petitioner being a matriculate applied for appointment on compassionate grounds. The application was forwarded by the Principal, Government Senior Secondary School (Boys), Badhni

Kalan, Moga to respondent No.3. However, respondent No.3 vide order dated 19.03.2013 (Annexure P-3) rejected the application moved by the petitioner. It is further submitted that the impugned order rejecting the application of the petitioner has not adverted to Clause 11 (a) of the Instructions dated 21.11.2002 (Annexure P-1). The similarly situated persons, namely, Harpreet Singh and Harjit Singh have also been given appointment. The case of the petitioner is identical to said Harpreet Singh and Harjit Singh.

On the other hand, the stand of the respondents is that since the mother of the petitioner is employed, therefore, the petitioner was rightly declined the appointment on compassionate basis. This Court had passed the following order on 20.04.2017:-

“The petitioner herein is seeking compassionate appointment.

It is argued that the denial of appointment on the ground that the mother of the petitioner is also in Government service should not be a bar to offer him an appointment. Policy of 2002 clearly specifies in para 11(a) that the department is to satisfy itself regarding the number of dependents, assets and liabilities left by the Government deceased employee plus income of the earning member as also his liabilities before rejecting the claim of the petitioner which has not been done in the instant case.

Faced with this situation, learned counsel for the respondents-State seeks time to seek instructions as to whether the petitioner would be entitled to compassionate appointment after the liabilities and the income has been assessed and the cases in which the similarly situated persons have been given appointment. Let the needful be done within a period of four weeks.

Adjourned to 07.07.2017.”

In pursuance of the aforesaid order, State has filed affidavit of District Education Officer, wherein it has been admitted that the similarly

situated candidates, namely, Harpreet Singh and Harjit Singh were given appointment even though one of their family member is employed.

Heard.

Keeping in view the fact that the employment of one of the family members of the deceased itself is not a bar for offering appointment on compassionate basis. The criteria is to satisfy the conscience of the concerned authority with regard to number of dependents, assets and liabilities left by the Government servant, income of the earning member as also his liabilities including the fact that the earning member is residing with the family of the Government servant and whether he should not be a source of support to other members of the family.

Here is a case where the criteria has not been resorted to. The impugned order is silent with regard to the satisfaction of the authorities concerned. Moreover, the State has specifically admitted that appointment has been offered to similarly situated persons, namely, Harpreet Singh and Harjit Singh.

In view of the above, present petition is allowed. The impugned order dated 19.03.2013 (Annexure P-3) is hereby set aside. The respondents are directed to issue appointment letter to the petitioner to the post of Chowkidar-cum-Peon.

(JITENDRA CHAUHAN)
JUDGE

05.09.2018

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