

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.6187 of 2017
Date of decision : 24.07.2018

Sanjay Kumar

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: .Mr.Ramesh Malik, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

RITU BAHRI J. (Oral)

The petitioner has come up in writ petition under Article 226 of the Constitution of India praying for issuance of a writ of certiorari quashing the impugned order dated 30.03.2015 (Annexure P-6) passed by respondent No.2 and against the ex-gratia Scheme dated 31.08.1995 (Annexure P-10) as well as principle of natural justice.

The brief facts of the case are that after the death of the father of the petitioner, her mother namely Smt.Savitri Devi has filed application dated 24.03.1997 before the respondents/authorities for grant of employment under Ex-gratia scheme to the petitioner on his attaining the age of majority. The said application was received by Superintendent of Police, Karnal, vide application (Annexure A-1) and his name was entered in the registered bearing serial No.33/97 dated 11.04.1997 which was forwarded to DGP, Panchkula. Thereafter, after attaining the age of majority, he applied for the post on 24.10.2006 for ex-gratia employment to the respondent-Superintendent, Karnal and he forwarded the same to the DGP. His claim for ex-gratia employment was rejected by stating the reasons that policy has

policy (Annexure P-2). Aggrieved against the same, he filed CWP No.12124 of 2008 titled as Sanjay Kumar Vs. State of Haryana and others (Annexure P-3) which was disposed of on 22.08.2008 by this Court with others connected matter with a direction to the respondents to consider the claim of the petitioners afresh in the light of instructions/Rules applicable at the time of death of the Government Employee. Even SLPs against the same order has been filed which were dismissed by Hon'ble Supreme Court. Thereafter, petitioner submitted an application to the office of respondent/Superintendent of Police, Karnal prayed for he may be recruited as Constable as per existing Ex-Gratia Policy prevailing in the year 1997 in view of the above decisions. Thereafter, the case of the petitioner has been sent to the office of DGP, Haryana, Panchkula, with a request to take appropriate action and guidelines may kindly be issued to this office to avoid further litigation in the matter vide communication dated 12.03.2015 (Annexure P-5). Vide order dated 01.04.2015 the respondent Director General of Police, Haryana, dismissed the claim of the petitioner on the ground that the Apex Court vide judgment passed in SLP N.10504 of 1993 filed by Umesh Kumar Nagpal Vs. State of Haryana and others (1994) 4SCC 138 that the compassionate employment cannot be granted after a lapse of reasonable period as the petitioner is not entitled for appointment on compassionate ground as he applied for the job on 24.10.2006, after a lapse of 9 years and 6 month. Because, the date when the petitioner had made application for assistance of Ex-gratia scheme was modified and financial assistance was to be granted to the legal heirs to the tune of Rs.2.5 Lacs and in the year 2005. The Government again framed rules regarding appointment on compassionate ground and the lump sum amount of

financial assistance was increased to Rs.5,00 Lacs.

In the present case, the petitioner has made application for benefit ex-gratia scheme and as such, respondent/State has to consider the case the petitioner under Ex-gratia scheme under 2006 Rules. As per judgment of Co-ordinate Bench of this Court in the case of **Takdir singh Vs. State of Haryana and others passed in CWP No.12263 of 2007 (Annexure P-11)** wherein, as per 2006 Rules which have been framed under Article 309 of the Constitution of India, petitioner is entitled to Ex-gratia payment as the petitioner could not be given any job.

In view of the above, the present writ petition is allowed and respondents are directed to accept option of the petitioner for assistance as per 2006 policy. The necessary benefits be released to the petitioner w.e.f. the year 2006 within four weeks from the date of receipt of certified copy of this order along with 8% interest and thereafter, information in this regard be sent to this Court.

24.07.2018
Anil

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>