

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

CWP No. 5609 of 2019

Date of decision : 25.03.2019

Manpreet Singh

....Petitioner

V/s

The State of Punjab & anr.

....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gaurav Sharma, Advocate for the petitioner.

RAJAN GUPTA J.

Petitioner seeks issuance of appropriate writ for quashing impugned letter dated 09.10.2015, Annexure P-5 vide which his claim for appointment as Kanungo has been rejected arbitrarily. Father of the petitioner is stated to have been working as Kanungo in the department of Revenue, Punjab. He died in harness on 23.11.2014. Petitioner thereafter applied for appointment on compassionate grounds. Case of the petitioner was duly considered by the concerned authorities. Petitioner represented that he should be appointed as Kanungo as his father was working on the same post. This plea was rejected on the ground that there was no provision under the Rules for direct appointment to the post of Kanungo. He was given an option to join on the lower post of Patwari. Petitioner accepted this offer and joined as Patwari. He has been working as such since then. Petitioner now wants that he should be promoted to the post of Kanungo. According to him, this claim was denied to the petitioner in an illegal and arbitrary manner. During the course of arguments, petitioner has submitted that there are number of other persons who were appointed as Kanungo on compassionate grounds. This court, however, finds no merit in the plea. It

a concession and not a right. Petitioner having accepted the post of Patwari cannot turn around and challenge the rejection of his plea to be appointed as Kanungo. The prayer is totally mis-conceived. During the course of hearing, petitioner has also annexed with this petition judgment, Annexure P-19 of the Division Bench and referred to same. He submits that same is squarely applicable to the facts of the instant case. This court finds the plea untenable. The said case is related to policy decision taken to adjust the staff retrenched from the Census Scheme of the Industries department. At the time of reinstatement, the court noticed that pick and choose policy has been adopted. It, thus, directed the concerned authority to consider the candidature of the petitioners for absorption on suitable posts commensurate with their qualifications. It is inexplicable how said judgment is attracted to a case for appointment on compassionate grounds. Besides, petitioner is not entitled to invoke the negative equality for the purpose of seeking appointment to a higher post when he duly accepted the post of Patwari on compassionate grounds and has been working as such. Petition is frivolous in nature. It is, thus, dismissed with ₹30,000/- as costs. Same shall be deposited with Punjab State Legal Services Authority. State shall be at liberty to deduct the same from the salary of the petitioner.

March 25, 2019

Ajay

(RAJAN GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No