

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

**Civil Writ Petition No.15979 of 2015
Decided on : 05.04.2019**

Priyanka Ahlawat

... Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Vivek Khatri, Advocate for the petitioner.

Mr. Prateek Gupta, Advocate for the respondents.

G.S. Sandhawal, J. (Oral)

The present writ petition under Article 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 12.05.2015 (Annexure P-2) passed by respondent No.4, whereby the claim of the petitioner for releasing of retiral benefits of her father as well as claim of compassionate appointment has been rejected.

The reasoning in the impugned order as such to deny the benefit to the petitioner is that the petitioner's mother Ravison married to late Shri Ravinder Kumar on 15.05.1995, who was serving with the BSF had been divorced. From the wedlock, the petitioner had been born on 28.11.1996. Unfortunately on account of marriage running to rough weather divorce had been obtained on 30.11.2007. Ravinder Kumar, thereafter, married Smt. Suman-respondent No.5 on 29.03.2009 and nominated his mother Bhaleri and his second wife as his heirs to the tune of 50-50 per cent and, therefore, the benefit of compassionate appointment and financial assistance sought for was rejected.

It is not disputed that the petitioner has also been given a right of maintenance @ ₹2,500/- per month on 12.12.2014 (Annexure P-1) from the date of the institution of the suit filed till her marriage, while no such benefit had been granted to the mother of the petitioner who was also party to the litigation. Ravinder Kumar is stated to have expired on 18.01.2015 during service and, therefore, the claim as such was made.

While issuing notice of motion on 11.09.2015 a sum of ₹2 lakhs out of the retiral benefits which were to be disbursed to the nominees of the deceased father of the petitioner were directed to be retained.

Initially, the respondents as such had opposed the demand of consideration on the ground that the name of the petitioner had not been nominated. The petitioner was not entitled for financial benefits as well as for compassionate appointment. Also it was observed that the children from the second marriage and second wife alongwith the mother were dependent's family members, as per the nomination. On 26.10.2016, the following order was passed by the Coordinate Bench:-

“Learned counsel for the respondents is directed to verify whether the petitioner, who was totally dependent of late Shri Rajinder Singh till his death, is entitled to certain monetary benefits under the Family Pension Rules. If it is so, she has every right to seek for compassionate appointment. In this regard, learned counsel for the respondents is directed to get instructions on the next date of hearing.

Respondent No.5 is not served.

Learned counsel for the petitioner is directed to take steps to serve respondent No.5 before the next date of hearing.

List this matter on 25.01.2017.”

Resultantly, affidavit of Shri Sunil Kumar Tyagi, DIG, Ftr Head Quarter BSF North Bengal, dated 18.05.2018 was filed, whereby it has been observed that under Rule 54 (7) (c) of the Central Civil Services (Pension) Rules, 1972, the deceased Government servant who is survived by a widow but has left behind an eligible child or children from the divorced wife shall be entitled to the share of family pension which the mother would have normally received at the time of Government servant had she not been divorced.

It has further been observed in the affidavit that in accordance with the scheme for compassionate appointment, a dependent family member would be spouse, son (including adopted son), daughter (including adopted daughter). Reference has also been made to DOP&T Circular No.14014/02/2012-Estt.(D) dated 30.05.2013 and the Scheme for appointment dated 09.10.1998 that a 'married daughter' is a person wholly dependent on the deceased Government servant at the time of his/her death. The petitioner not being married was dependent on the deceased Government and was, thus, entitled to family pension. The respondents, thus, have further also held out that the petitioner can be allowed to appear in the eligibility test for compassionate appointment in accordance with the terms and rules thereof. Therefore, the petitioner can be allowed to appear in the prescribed test and conditions of

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compassionate appointment and if she qualifies the same, she would have to submit an obligation to maintain all other family members of the deceased employee properly, failing which the appointment, if any granted, would be terminated.

Counsel for the petitioner in such circumstances submits that he would be satisfied if necessary directions are issued to the respondents to consider the case of compassionate appointment of the petitioner in the peculiar facts and circumstances, since it is stated that she is still not married and, therefore, in need for compassionate appointment. Counsel has further stated that he does not press qua any other relief, as she would be satisfied if her case is considered for compassionate appointment, as she would, thus, be no longer in a stage of vagrancy if she is given appointment and, therefore, need not to litigate against the other legal representatives of her deceased father.

Keeping in view the fair stand as such, the present writ petition is disposed of with the directions to the respondents to consider the case of the petitioner for compassionate appointment as held out in the affidavit dated 18.05.2018, subject to her qualifying the prescribed test etc. Needful be done within a period of 4 months from the receipt of the certified copy of this order.

Disposed of.

APRIL 05, 2019
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No