

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16880-2014 (O&M)

Date of Decision:-22.02.2019.

Navdeep Singh and another

.....Petitioners

Versus

Pepsu Road Transport Corporation through its Managing Director, Nabha
Road, Patiala

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Ms. Sukhmani Patwalia, Advocate for
Mr. Vikas Singh, Advocate for the petitioners.

Mr. Anupam Singla, Advocate for the respondent-PRTC.

ARUN MONGA, J. (Oral)

The claim of the petitioners in the present petition is to quash the impugned order dated 30.12.2013 and direction to the respondent for appointing petitioner No.2-Jagdeep Singh on compassionate ground as the petitioners' father, while serving as Driver, died in harness on 16.09.2009.

2.) Vide impugned order dated 30.12.2013 (Annexure P-5), the claim of the petitioner No.1 was negated on the ground that his father was not a regular employee of the respondents-Pepsu Road Transport Corporation (PRTC). The petitioners contend that their father joined the services of the Corporation as a Driver on the premise that his services would be regularized in due course. The petitioners' father as also other Drivers at the relevant time were appointed after due process of law by issuing advertisement for their selection.

3.) In view of their non-regularization, father of the petitioners along with 51 other similarly situated Drivers/employees filed CWP-8240-2008 before this Court seeking regularization of their services. The said writ petition was allowed in the following terms:-

“10. The petitioners are entitled to the declaration of the status that on the completion of their first period of six months, they became probationers and after a completion of one year, they were deemed to be permanent. In effect from the respective dates of employment after completion of 18 months, each one of the workmen is entitled to be treated as permanent and put on a scale appropriate to the status as permanent employee. By such a process, I shall not visit the Corporation with any financial obligation for the past, but the exercise of fixing the scales in the manner which I have referred to by the treatment of the petitioners' status as permanent employees, shall begin within a period of six weeks from the date of receipt of the copy of the order and the payment of salaries shall be made in future on such a reckoning.”

4.) Unfortunately, the father of the petitioners died during the pendency of the above writ petition and his LRs were not impleaded in the proceedings before the writ petition was allowed.

5.) In view of the fact that the writ petition was allowed declaring that the petitioners would be deemed to be permanent employees after treating their first six months of their service as probationers and after completion of one year of service, they were deemed to be permanent.

6.) The learned counsel for the respondent-PRTC contends that since the benefit was confined only to the petitioners in the above writ

therefore, the petitioners cannot seek benefit of regularization granted to the other similarly situated persons. I am afraid that I do not find any merit in the said argument in view of the fact that the declaration given by this Court in uncertain terms states that the petitioners in that case who had put in six months of probation period from the date of initial appointment and had completed one year after the probation period, were to be “deemed” as permanent. Admittedly, petitioners' father had joined service on 04.04.2001. He would have been deemed permanent from 04.10.2002 in terms of the order aforesaid in CWP-8240-2008, but for his death on 16.09.2009. The learned counsel for the petitioner rightly contends that since no pecuniary benefits were granted to the similarly situated other employees, therefore, the petitioners did not deem it fit to seek the benefit of “deemed” permanency of their father and that otherwise, the father of the petitioners would have been entitled to the said benefit of deemed permanency/regularization.

7.) The learned counsel for the respondent-PRTC also objects to the *locus standi* of petitioner No.2 to seek benefit of appointment on compassionate ground contending that it was petitioner No.1 who applied for the appointment and, therefore, by way of the present writ petition, petitioner No.2 cannot seek the relief as request of appointment can only be considered qua petitioner No.1. I do not find any force in the said argument in view of the fact that the benefit of compassionate appointment is to be given to any one family member of the deceased employee. In any case, there is the candid statement of the petitioner No.1 that he would not be pursuing his request for compassionate appointment, and that his other brother who is equally eligible for the appointment, be given this benefit.

8.) In view of the above observations, the impugned order dated 30.12.2013 (Annexure P-5) is quashed and the respondent-PRTC is directed to consider the case of petitioner No.2 for appointment on compassionate ground in accordance with their existing policy for the purpose. Let a speaking order be passed within a period of 3 months from the date of receipt of certified copy of this order.

9.) Writ petition is, accordingly, disposed of.

(ARUN MONGA)
JUDGE

February 22, 2019.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.