

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

**CWP-13093-2017(O&M)
Date of decision-08.07.2019**

Sukhjit Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. G.S. Bal, Sr. Advocate assisted by
 Mr. M.K. Madahar, Advocate
 for the petitioner(s).

Ms. Anju Sharma Kaushik, D.A.G., Punjab.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of certiorari for quashing impugned orders dated 23.12.2016 and 13.02.2017 (Annexures P-10 and P-12) passed by respondent No.2 rejecting the claim of the petitioner for compassionate appointment on the ground that he could not qualify the physical test.

It is contended by the learned Senior counsel that the similarly situated candidate Amandeep Singh had filed CWP No.10209-2015 which came to be dismissed vide judgment dated 21.09.2017. Thereafter, said Amandeep Singh, approached respondent No.2 for grant of an extra chance for his physical test. It is further contended that the said Amandeep Singh was allowed extra chance by respondent No.2 on the ground that his father

had contributed a lot for the department at the time of terrorism, his mother was suffering from cancer and that they are facing financial crunch since long.

As per reply filed on behalf of respondent Nos.1 and 2, the father of petitioner late S.I. Mangal Singh died in harness on 22.03.2009. The mother of petitioner submitted an application on 06.05.2009 to S.S.P. Batala for enlistment of the petitioner as ASI under Priority List Instructions. He was overage by 7 years at the time of submission of application. The competent authority at that time did not deem it fit to grant him relaxation in upper age. Instead of rejecting his claim for appointment in Police Department being overage, the department sympathetically considered his claim for appointment as Clerk under Priority List Instructions. Consequently, he was issued appointment letter bearing No.517-22/E-3(3) dated 15.01.2014 (Annexure R-1) for the post of Clerk and by taking a lenient view, the pre-requisite condition of passing the suitability test for the post of Clerk was also relaxed to the extent that the petitioner will clear the suitability test for the post of Clerk within one year of joining the duty but he refused to join as a Clerk.

Heard.

As in case of Amandeep Singh, in the present case too, the mother of the petitioner is suffering from heart ailment and is getting treatment from Amritsar Hospital. Therefore, she is at par with the Amandeep Singh.

In these circumstances, the Court feels that the stand taken by the respondents being discriminatory has caused serious prejudice to the

cause of the petitioner. Such a discrimination by the State, a model employer, is deplorable. Therefore, the respondents are directed to afford one more chance to the petitioners to clear the physical test in acknowledgment of contribution made by the father of the petitioner and the State policy as the petitioner was in the zone of consideration on the date when the application for compassionate appointment, was made. In case, the petitioner fails to qualify the physical test, the respondents will consider to revive the appointment letter issued to the petitioner for the post of Clerk.

In view of the above, without adverting to the merits of the case, the present petition is disposed of, accordingly.

08.07.2019*ps-I***(JITENDRA CHAUHAN)
JUDGE**

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