

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

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**CIVIL WRIT PETITION NO.26783 OF 2015
DATE OF DECISION: JANUARY 28, 2020**

Upinder Kaur

.....Petitioner

VERSUS

State of Punjab and Anr.

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. T.P. Singh, Advocate
for the petitioner.

Ms. Anu Pal, DAG, Punjab.

AUGUSTINE GEORGE MASIH , J. (ORAL)

Petitioner has approached this Court praying for issuance of appointment letter to the post of Restorer on compassionate ground which post was offered to her on 21.07.2014, Annexure P-7. Petitioner in pursuance thereto had submitted a representation that she be allowed to join the said post, as she has already submitted the Medical examination and verification reports to the respondents. Copy of the representation dated 08.12.2014 is appended as Annexure P-12. The respondents instead of making her join on the post of Restorer on compassionate ground withdrew the same and instead offered her an appointment on the post of Peon (Sewadar). Petitioner faced with this situation has approached this Court by filing the present writ petition.

In the reply, which has been filed, the admitted position is that the

mother of the petitioner was working as a Junior Assistant and died on

15.02.2004. An application was immediately submitted on behalf of the petitioner, who at that time was only 10 years of age as per the prevalent policy, which was considered by the respondents. It has also been admitted that the petitioner in pursuance to the said application was offered appointment on the post of Restorer. The reason why the said offer on the post of Restorer was withdrawn is the objection taken by the personnel department that the post cannot be kept reserved for a period exceeding five years, which had happened in the case of the petitioner because of she being of only 10 years of age at the time of death of her mother and was being offered appointment on attaining the age of 18 years. Another ground which has been taken in the reply is that the department has not properly taken into consideration the financial position of the family as family pension was being received by the petitioner's family as well as the other benefits which on death of her mother were disbursed. Apart from that, the father of the petitioner was also working but not in a Government department. It is therefore asserted that the offer has been made to the petitioner for appointment on the post of Peon (Sewadar) instead of Restorer.

Counsel for the State on instructions from Mr. Inderjit, Superintendent, Election Department has informed this Court that the post of Restorer was very much available at the time when the petitioner was offered appointment on the said post and even at the time when the alternative posts of Peon (Sewadar) was offered to her. However, it is asserted by the Counsel for the State that the writ petition cannot be accepted as the respondents have only followed the instructions of the department of personnel.

I have considered the submissions made by the counsel for the parties and with their assistance have gone through the records of the case.

The facts have not been disputed as has been recorded above which

counsel for the respondents. The question which requires to be answered is whether the petitioner was entitled for appointment to the post of Restorer, which post was offered to her vide letter dated 21.07.2014, Annexure P-7 issued by the Deputy Chief Electoral Officer, Punjab specially when she has proceeded to even get her medical certificate and other formalities completed and when the said post was still available, when she was alternatively offered the post of Peon (Sewadar) vide communication dated 08.12.2014 (Annexure P-11)?

The very purpose of the benefit of compassionate appointment is to help out the family in crisis which they had to undergo because of the sudden demise of a bread-winner in the family. The factum that the petitioner was eligible for consideration for appointment to the post on compassionate grounds is not in dispute as the offer has already been made to the petitioner for appointment to the post of Restorer and thereafter to the post of Peon(Sewadar). The aspect which, therefore, needs to be looked into is whether the earlier offer of appointment to the post of Restorer made to the petitioner could have been withdrawn by the respondents merely because the offer for appointment to the petitioner is issued beyond the period of 5 years from the date of death of her mother. The instructions on which the reliance has been placed by the respondents for denying her the said benefits would not be attracted in the present case as there was no delay on the part of the petitioner. Petitioner, the moment she attained the age of 18 years was offered the appointment to the post of Restorer on an application submitted on death of her mother. She had acted upon the same by submitting to the medical examination and thereafter the character verification etc. The instruction being not applicable and being against the very spirit of the purpose for which the compassionate appointment is being given to her for which she has been found eligible, the withdrawal of the said offer on the part of the respondents is not sustainable.

The action of the respondent, therefore, cannot be sustained. The writ petition is allowed. Petitioner is directed to be appointed on the post of Restorer, which post was and is very much available today as well.

The appointment letter be issued to the petitioner on the post of Restorer within a period of four weeks from today.

28th January, 2020
manju

(AUGUSTINE GEORGE MASIH)
JUDGE

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