

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

LPA-458-2021

Date of Decision:-31.8.2021

Soma Rani and another

... Appellants

Versus

The State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Shakti Mehta, Advocate
for the appellants.

Mr. Navdeep Chhbra, DAG, Punjab.

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KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The appellants have preferred this appeal against order dated
19.4.2021 passed by the learned Single Judge, whereby writ petition
No.8401 of 2021 was dismissed.

The brief facts of the case of the appellants are that Late Ashok
Kumar was husband of appellant No.1-Soma Rani and father of appellant
No.2-Harwinder Kumar. Late Ashok Kumar was employed as Special Police

Officer (in short 'SPO') on daily wage basis in 1992. Even at the time of his death on 5.8.2003, he was serving as SPO. At that time, appellant No.2 was just 7 years old. Appellant No.2 on attaining the age of majority, moved an application for appointment on compassionate ground. However, his claim was rejected vide order/reply dated 3.12.2020 (Annexure P-7) on the ground that there is no provision for providing appointment on compassionate basis to the dependent of a daily wager, who died during employment. The appellants had assailed the said order/reply (Annexure P-7) by invoking the writ jurisdiction.

The learned Single Judge dismissed the writ petition after hearing the counsel for the appellants (petitioners therein). While dismissing the writ petition, the learned Single Judge held as follows:-

“This Bench has heard learned counsel for the petitioners and perused the paper book. This writ petition has been filed in the year 2021 i.e approximately 18 years after the death of late Sh. Ashok Kumar. Thus, the petition suffers from unexplained delay and latches. Secondly, the compassionate appointment is given only to provide an immediate support to the family of the deceased employee. The compassionate appointment is a concession which is granted by the authorities in extraordinary circumstances. Such concession can only be claimed in accordance with the rules or the policy instructions, if any. Learned counsel does not dispute that there no policy which may entitle the legal heirs/dependents of the deceased daily wager to seek employment on compassionate basis.

Still further, 18 years have elapsed since late Sh. Ashok Kumar died.

Further, the judgment relied upon by the petitioners is in the case of a workman working in Public Health Department. Hence, the judgment relied upon is not applicable. Still further, the Special Police Officers are only recruited on temporary basis, to be called for service as and when required. There is no regular cadre of Special Police Officers.

Keeping in view the aforesaid facts, no ground to issue the writ as prayed for, is made out.”

Aggrieved by the aforesaid order, the present appeal has been filed by the appellants.

We have heard the counsel for the appellants.

The counsel for the appellants while placing reliance on the judgment passed by the Co-ordinate Bench of this Court in **Beant Kaur vs. State of Punjab 2001(3) RSJ 262**, contended that the deceased Ashok Kumar completed more than 10 years of service as SPO and as per State Government Policy he was eligible for regularization but unfortunately in the mean time he died. So services of deceased Ashok Kumar would be deemed to have been regularized in 2002, on completion of 10 years of service. The counsel for the appellants further argued that this being the position, it cannot be said that deceased Ashok Kumar was a daily wage. The counsel for the appellants further contended that at the time of death of Ashok Kumar, his son Harwinder Kumar was minor and was not eligible for

government job. Appellant No.2 approached the authorities on attaining the age of majority. The learned counsel further contended that in these circumstances, the fact that appellants approached the Court approximately after 18 years of the death of Ashok Kumar, would not go against them. The counsel for the appellants further contended that delay in filing of the writ petition stands fully explained. It is further contended that the case of the appellants is fully covered under **Beant Kaur's** case (supra).

We have considered the submissions made by the counsel for the appellants.

Admittedly, Ashok Kumar was engaged as SPO on daily wages in 1992 and he died on 5.8.2003, while in harness. It is also not disputed that appellant No.1 is the widow and appellant No.2 is son of deceased Ashok Kumar. At the time of death of Ashok Kumar, appellant No.2 was minor being 7 years of age. It means he attained age of majority in the year 2014 and immediately thereafter in 2015 he claimed employment on compassionate ground. The claim of appellant No.2 was rejected on 3.12.2020 (Annexure P-7). Thereafter, the appellants approached this Court under Article 226 of the Constitution of India. So, it cannot be said that the claim of the appellants is suffering from laches or is time barred. Thus, we do not concur with the finding of the learned Single Judge to the effect that the writ petition suffers from unexplained delay and laches.

The appellants have relied upon decision of this Court in **Beant Kaur's** case (supra) to establish their claim. We are of the view that the

facts of **Beant Kaur's** case (supra) are distinguishable from the facts of the case at hand. In the said case, the deceased was working on daily wages in Public Health Department and on completion of 10 years of service his name was recommended for regularization of service, as per the Punjab Government Policy and subsequent to that the deceased died and it being so, the Government was directed to consider his widow for appointment on compassionate ground. However, in the case in hand, the name of deceased Ashok Kumar was never recommended for regularization of service. So, it cannot be said that as per Government Policy, the services of deceased Ashok Kumar would be deemed to have been regularized by the time of his death, on the ground that he had already completed 10 years of service. So, the learned Single Judge rightly held that the aforesaid judgment in **Beant Kaur's** case (supra) is not applicable to the case in hand. The learned Single Judge further held that there is no regular cadre of SPOs, who are recruited only on temporary basis. We are also in agreement with the said finding given by the learned Single Judge.

In the light of the above, it stands proved that deceased Ashok Kumar was not permanent Government employee at the time of his death. The dependent of the deceased Ashok Kumar could claim concession of employment on compassionate ground, only in accordance with the Rules or the Policy framed by the Government. Appellants failed to bring to the notice of this Court any such Policy which provides compassionate employment to the dependents of such like daily wager. So, the learned

Single Judge rightly held that the dependents of deceased Ashok Kumar cannot claim government job on compassionate ground.

In view of the above, we do not find any ground to interfere in the matter. Consequently, the appeal is dismissed.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

31.8.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No