

Usha Rani Bhatia

.....Petitioner

versus

Haryana State Electricity Board, Panchkula and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Mr. J.S. Yadav, Advocate for the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to offer appointment under the Ex-gratia scheme as husband of the petitioner died in harness.

2. Petition was admitted for hearing on 01.04.1998.

3. Admittedly, during pendency of the writ petition, petitioner's (widow of the deceased) claim was accepted for compassionate appointment and to that extent, same is rendered infructuous. However, the argument of learned counsel for the petitioner that the petitioner ought to have been given appointment as a Clerk since her husband was working as a Clerk and she is fully eligible and qualified as a JBT teacher and therefore, she ought not to have been offered appointment on a Class-IV post, is not sustainable. The position in this aspect is no more *res integra*. Reference may be had to Supreme Court judgment rendered in **CA-4718 with CA-659-2000 (arising out of SLP (C) No.13719-2000 titled State of Haryana and others versus Vipin Kumar**, wherein the principle of "One Step Below" in the case of compassionate appointments was dealt with and in Paras-2 and 3 thereof, it is opined thus:-

"2. xx xx xx. In an identical matter this Court had occasion to examine the scope of the said rules in **State of Haryana and others v.**

Rajeev Deshwal, SLP (C) No. 778/1999 disposed of on 22-3-1999 and interpreted the expression that “appointment should be one step below” as follows:

“In our opinion this interpretation of the said clause by the High Court is erroneous. This clause means that the offer of appointment to the deceased employee's dependant is not to be on post equivalent to the one which was held by the deceased employee but should be on a lower post by at least one step. Therefore, in the present case when the deceased employee was Deputy Superintendent of Police, the offering of the post of A.S.I. was not incorrect.....”

3. *All that need to be done is that, post that is offered to the respondent claiming a post on compassionate ground, should be at least one step below that was held by the deceased employee and that does not mean it should be the immediate post below it, it could be even lower than that. If that is the correct interpretation to be placed of the relevant rules, the post offered to the respondent appears to us to be correct. Hence the view of the High Court is erroneous. The order made by the High Court is, therefore, set aside and the writ petition filed by the respondent is dismissed. However, it is made clear that as the respondent has joined the post s per the orders made by the Government, he may continue to serve on the said post. The appeal is allowed accordingly.”*

4. In view of the aforesaid, concededly the petitioner has been given appointment on a Class-IV post which is One Step Below the position her husband was working when he died in harness.

5. It is trite that the qualifications of dependent of an employee having died in harness are not relevant. The channel of the *ex-gratia* scheme cannot be used for providing a job according to the qualifications, but is merely meant to ameliorate the immediate financial calamity a family is visited with, due to sudden death of an earning member.

6. In the premise, no grounds are made out to interfere.

7. Dismissed.

**(ARUN MONGA)
JUDGE**

August 22, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No