

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

CWP-12448-2000 (O&M)

Date of decision: May 24, 2022

Satish Kumar

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None 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 Certiorari to quash an order dated 10.03.2000 (Annexure P-5) issued by respondent No.2, whereby his representation that he be appointed as Sub-Inspector on compassionate grounds was rejected. Further a writ in the nature of Mandamus has been sought directing the respondent to consider the case of the petitioner for compassionate appointment under ex-gratia scheme in terms of the Govt. instructions dated 31.08.1995 and 13.08.1998 annexed as Annexures P-6 & P-7, respectively.

2. Petition was admitted for hearing on 03.10.2000.

3. When taken up for final adjudication, there is no representation on behalf of the petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 21 years before this Court, either it has been rendered infructuous or even otherwise the petitioner seems to have lost interest in pursuing the same.

4. In any case, from perusal of record/pleadings, it appears that even on merits, claim of the petitioner is not admissible. Reference may in particular be had to the stand taken in Para-2 of reply on merits of reply filed by respondents No.1 to 3.

5. Learned State counsel has canvassed arguments on the similar lines as per the defense taken in the written statement.

6. I am in agreement with the stand taken by the respondents. Neither any replication has been filed to the afore-noted stand of the respondents nor any additional affidavit of any kind to controvert the same.

7. Furthermore, 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.”

8. 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.

9. In view of the aforesaid, no grounds are made out to interfere.

10. Dismissed.

(ARUN MONGA)
JUDGE

May 24, 2022

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No