

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

CWP-3897-2020 (O&M)

Date of decision: September 06, 2022

Abhishek Rana and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Anmol Partap Singh Mann, Advocate for the petitioners.

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for setting aside recommendation dated 03.12.2019 (Annexure P-9) by respondent No.4-Sueprintendent of Police, Karnal to respondent No.3-Inspector General of Police, Karnal Range and for appointing petitioner No.1 to the post of Constable in Haryana Police under the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019.

2. Controversy involved herein is already summed up by my learned Sister Ritu Bahri, J. (as she then was seizen of the matter) vide order dated 20.02.2020, which is reproduced herein below:-

“Heard learned counsel for the petitioners.

The short question for consideration in the present writ petition is that whether a family member of a deceased employee after having availed benefit of financial assistance, can again exercise option to claim appointment under ex-gratia scheme as per the notification dated 02.08.2019 (Annexure P-6)?

Vide order dated 16.10.2018 (Annexure P-5), financial assistance was given to the petitioners. However they are ready to give back the financial assistance granted to them and are

claiming appointment as per the notification dated 02.08.2019 (Annexure P-6).

The benefit of compassionate assistance and compassionate appointment are available for the family of those employees who have served State for number of years and died before attaining the age of superannuation. Being the beneficial legislation, the object is to secure the future of the family by giving compassionate appointment, the petitioner No.1 is duly qualified to be appointed as Constable and fulfills all the criteria to the post of Constable. Petitioner No.1 is a national level shooter as per the certificates (Annexure P-10 colly) and if he is given option again, it will not defeat the very purpose of notification dated 02.08.2019 (Annexure P-6). A perusal of this notification shows that his case can be considered by exercising power of relaxation under Section 42.

Learned counsel for the petitioners contends that out of the entire cadre of Constables, 5% posts are reserved for compassionate appointment, where the petitioner No.1 can be easily accommodated.

Notice of motion.

Mr. Harish Nain, Assistant Advocate General, Haryana accepts notice on behalf of the official respondents and seeks time to address arguments.

List on 14.05.2020.”

3. I am in respectful agreement with the observations made on merits of the intent, nobility and benevolence for the compassionate appointments under the policy promulgated from time to time by the State Government. Trite to say, the matters of policy are best left to the policy makers, in this case, State of Haryana who concededly have already accorded the benefit of the financial assistance as per policy applicable at the relevant time when the family member (deceased employee) of the petitioners died in harness. However, subsequently, policy was changed. Apart from the benefit of financial assistance, an option was given to the family members of the deceased employee to seek compassionate appointment in case they so desire, in substitution of their right to seek financial assistance. Since petitioners had already opted for the financial assistance, their claim to seek job, therefore,

did not remain alive and accordingly, no benefit of compassionate appointment can be accorded to them under the subsequent policy.

4. No grounds for interference are made out.

5. Dismissed.

6. As regards the benefit already accorded, in the parting, I may hasten to add that I am of the opinion that petitioners in fact stand to gain by the continued financial assistance payable to them as per the last salary drawn, upto the age deceased employee would have attained superannuation as per the policy while they are also at liberty to seek alternative job elsewhere otherwise than under the compassionate appointment policy. If successful, they would rather stand to gain financially and will be on better footing than what would be earned by getting a job with the respondents under the policy of compassionate appointment. Needless to say, for that they have to forego the last drawn salary of the deceased employee, which is currently being paid to them and will continue till the date Suraj Pal Singh deceased would have attained the age of superannuation.

(ARUN MONGA)
JUDGE

September 06, 2022

mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No