

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

CWP-4029-2019 (O&M)

Date of decision: December 06, 2022

Rajni Kant

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Kulwant Singh Dhanora, Advocate for the petitioner.

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 Mandamus directing the respondents to grant compassionate employment to the petitioner, as mother of the petitioner died while in service on 28.10.2002 and the petitioner has attained majority in the year 2013.

2. Succinct factual background first, as pleaded in the petition. Smt. Ram Murti (deceased), mother of the petitioner, was employed in the Haryana Police Department and she died while in service on 28.10.2002. Petitioner and Neelam Rani are two adopted children of Ram Murti. Vide letter dated 13.10.2003 (Annexure P-2), grand-father of the petitioner was asked to produce the adoption deed and in compliance, said adoption deed dated 20.12.2001 (Annexure P-3) as well as succession certificate dated 05.06.2003 (Annexure P-4) were produced. Grandfather of the petitioner also made a request to grant financial aid as per policy of the State Government. Petitioner attained the age of majority in the year 2013 and accordingly, he

made a representation to grant him compassionate appointment. No reply was received. Therefore, he moved a representation dated 16.03.2014 (Annexure P-7), in this regard. Neither compassionate appointment nor financial aid has been granted to the family of late Ram Murti. Petitioner also served a legal notice dated 17.08.2018 (Annexure P-8).

3. In the return dated 02.11.2019 filed on behalf of the respondents, it is stated in the preliminary submissions, that on 16.02.2000, Smt. Ram Murti was appointed as Gardener on compassionate ground as her husband Sh. Randhir Singh (then posted as Constable), died in harness. Subsequently, on 28.10.2002, Smt. Ram Murti also expired. It is further stated that on 01.01.2003, brother of Smt. Ram Murti's husband, namely Dhan Singh produced succession certificate dated 16.05.2003 and requested to release service benefits of Smt. Ram Murti (deceased). Vide letter dated 15.01.2004, Accountant General, Haryana sanctioned the service benefits of Smt. Ram Murti in favour of the petitioner. At the time of filing of application by Sh. Dhan Singh, no request was made for any compassionate employment and at the relevant time, no service benefits remained unpaid.

3.1 Further, it is stated that Smt. Ram Murti had not completed 3 years of service, therefore, as per Haryana Compassionate Assistance to the Dependent of deceased Government Employee Rules, 2003 (for short 'Rules of 2003'), her legal heir cannot be provided Govt. Job under ex-gratia scheme.

4. I have heard rival contentions of learned counsel for the parties and gone through the record.

5. It is an unfortunate case of an orphan, First his father died in harness and subsequently his mother, who had been appointed on

compassionate basis also died on 28.10.2002. Being a minor, he could not have sought compassionate appointment since the applicable policy envisages that it is only on becoming major that one can seek an employment. On turning major, the petitioner applied vide representation (Annexure P-6). It is stated in the return that since his mother had not rendered 3 years of service after compassionate appointment, she cannot be given the benefit of seeking out of turn appointment on compassionate grounds. Though it has been pleaded baldly that as per Rules of 2003, petitioner is not entitled to seek compassionate assistance and/ or benefit of any ex-gratia scheme, but neither in course of hearing nor otherwise in the pleadings, any specific Rules have been cited in ostensible compliance whereof, case of the petitioner was rejected.

5.1 Regardless of the Rules, though the same has not been cited, I am of the view that right of the petitioner to seek ex-gratia benefit crystallized as on the date his father died. Being a minor, he was naturally not eligible to apply and it is in this premise, that his mother was offered job. Even if the Rules are to be read as requiring minimum qualifying service of 3 years of the petitioner's mother for his compassionate appointment, the benefit has to be given to the petitioner on the basis of his father's death in harness on having fulfilled the said qualifying service. Merely because mother of the petitioner was given the benefit of compassionate appointment, the right, which had crystallized in favour of the minor son, cannot be taken away. In fact, this is a case of greater hardship which stands on a much higher footing than the ordinary ones seeking benefit of ex-gratia, since the case at hand concerns a orphan child having lost both his parents and therefore, the

petitioner's case needs to be dealt with more sympathetically than those of the others. Unfortunately, a rather pedantic view has been taken by the competent authority while rejecting his case by totally disregarding the intent and spirit of the ex-gratia scheme and by misreading the letter thereof.

6. As an upshot of the above, writ petition is allowed. Respondents are directed to consider the case of the petitioner and accord him the benefit as may be admissible as per applicable policy.

7. Necessary exercise be carried out within a period of 3 months from today.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 06, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No