

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

Sr. No.613

CWP-2156-2000 (O&M)

Date of decision: May 19, 2022

Harish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Surinder Gandhi, Advocate
for Mr. Jagbir Malik, Advocate
for the petitioner.

Mr. R.D. Sharma, Deputy Advocate General, Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 2000, *inter alia*, for issuance of a writ in the nature of certiorari to quash order dated 29.10.1997 and in the nature of mandamus to direct the respondents to appoint petitioner on the post of Teacher of B.A., B.Ed. Grade or J.B.T Teacher as his qualification is M.Com, B.Ed.

2. Learned counsel for the petitioner vehemently argues that case of the petitioner is squarely covered by judgments rendered in CWP No.5413 of 1999, titled as *Ravinder Singh vs. State of Haryana*, decided on 05.05.1999 and CWP No.13888 of 1998, titled as *Satender vs. State of Haryana and others*, decided on 11.11.1998.

3. *Per contra*, learned State Counsel would urge that the petitioner is entitled to employment, only on a post, which is one step below the post on which the deceased father was serving at the time of his death. The petitioner's father was appointed on the post of J.B.T. Teacher in the pay scale of Rs.1200-2040 which was upgraded to Rs.1600-2660 after he passed B.A. Examination and therefore at the time of death he was working in the pay scale of Rs.1600-2660, he points out.

4. I have heard the competing arguments of both the learned counsel and I am of the view that petition deserves dismissal for the reasons stated hereinafter.

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 this context, reference may also be had to a judgment rendered by the Supreme Court 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.”

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

8. Dismissed.
9. Since the main case has been decided, pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

May 19, 2022
ashish

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No