

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

(115)

CWP-783-2023

Date of decision :-01.03.2023

Sandeep

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Bhisham Kumar Majoka, Advocate for the petitioner.

...

SUVIR SEHGAL, J (ORAL)

Affidavit dated 28.02.2023 filed by the petitioner in
deference to order dated 16.01.2023 is taken on record.

Prayer made in the instant petition is for issuance of a writ in
the nature of mandamus to direct the respondents to decide the matter of
compassionate appointment and to appoint the petitioner under the ex-
gratia scheme on the ground of parity, as the respondents have given
appointment to Ram Kumar, S/o Late Shri Beg Raj, S.S.Master, vide
letter dated 13.09.2019, Annexure P-3.

Factual matrix leading to the filing of the petition is that Shri
Premi Lal, Drawing Teacher, whose services had been regularized, vide
letter dated 30.09.1984, unfortunately, expired on 03.01.2006, while in
service. Petitioner, who is his son, was minor at the time of his death. On
acquiring a graduates' degree and attaining majority, he applied on

11.03.2008 for ex-gratia appointment, but the respondents did not take any action. On the coming into force of the Haryana Civil Services (Compassionate Financial Assistance or Appointment) Rules, 2019, Annexure P-1, petitioner submitted representation dated 30.01.2020, Annexure P-2, which also did not evoke any response from the respondents. Petitioner submits that the ward of Shri Beg Raj, who died in harness, has been appointed to a Group D post. Reference has also been made to appointment orders dated 11.03.2020 and 07.01.2021, Annexures P-4 and P-5, respectively, whereby, Tarsem S/o Late Shri Malhar Singh and Virender Kumar S/o Late Shri Mahender Singh, driver, have been offered appointment as a temporary Peon, a Group D post. Grouse of the petitioner is that though he is similarly placed, but he has been illegally ignored.

Having heard counsel for the petitioner, this Court vide order dated 16.01.2023 directed the petitioner to file an affidavit to the effect that neither he nor his family members have received any financial assistance from the Government in terms of the policy, which was prevailing at the time of his father's death. An affidavit has been filed by the petitioner, wherein, it has been deposed that his mother has received financial assistance from the State Government after the death of her husband as per the then prevalent policy and she is getting a monthly pension of Rs.18,800/-.

Rule 4 of Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005 (for short "the 2005 Rules"), which was in vogue at the time of his father's death, provides thus:

“4. (1) An eligible family member of deceased/missing Government employee shall give in writing his/her preference of option, within six months from the date of death of the Government employee, for one of the following;

(a) ex-gratia appointment on compassionate grounds to a member of the family, who was “completely dependent” on the deceased employee, and is in extreme financial distress due to the loss of the deceased, namely, the Government employee, who dies in “service”;

or

(b) ex-gratia compassionate financial assistance to the family of the deceased, over and above, all other service benefits like ex-gratia grant due to his/her family, to be paid at the rate Rs.5 (five) lakhs in case the family of the deceased not opting for ex-gratia employment(Rs.5.00 lakhs, if the deceased Government employees was of the age of 55 years or above, on the date of death); if the Government employee dies at the age of 55 years or thereafter, his family shall not be eligible for ex-gratia appointment.

(2) Exercise of option shall be permitted only once and shall not be changed, once exercised.”

In view of above specific provision in the 2005 Rules, an option can be exercised by the dependents of the deceased Government

employee either for financial assistance or for grant of ex-gratia appointment. From the affidavit filed by the petitioner, it is evident that his mother opted for and is in receipt of financial assistance from the State. Petitioner is, therefore, debarred from claiming appointment on compassionate basis.

Finding no merit in the prayer made, petition is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

01.03.2023
Pardeep

Whether speaking/reasoned	Yes
Whether reportable	Yes/No