

CWP-3802-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(113)

CWP-3802-2023 (O&M)

Date of decision : 15.05.2023

Dharmo Devi and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. A.K.Singh Goyat, Advocate
for the petitioners.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

...

SUVIR SEHGAL, J. (Oral)

CM-8367-CWP-2023

Application is allowed as prayed for.

Annexures P-10 to P-12 are taken on record.

CWP-3802-2023

1. Instant petition has been filed seeking issuance of a writ in the nature of certiorari for quashing order dated 30.01.2023, Annexure P-9, whereby, claim of petitioner No.2 for appointment on compassionate ground has been rejected by respondent No.3.
2. Brief facts may be noticed. Desh Raj, who was working as a Conductor on regular basis, unfortunately, died in harness on 22.09.1987.

Petitioner No.1, who is his widow, was granted the service benefits due after his death and by order dated 16.10.1989, family pension has been released to her. On her representation, by appointment letter dated 21.03.1995, Annexure P-2, she was given an offer to join as Peon with Government Vocational Education Training Institute, Hisar, which was cancelled, vide memo dated 28.11.1995, Annexure P-3, on her request. Another appointment letter dated 10.01.1997, Annexure P-4, was issued to the petitioner for appointment on the same post, but she could not join because of her ill-health. After considering her request, another appointment letter dated 12.03.2003, Annexure P-5, was issued by respondent No.6, but the petitioner could not join the duty. Another opportunity was given to her to join by letter dated 30.06.2003, Annexure P-6, but she could not avail of it. She submitted representation dated 13.12.2022, Annexure P-7, for grant of compassionate appointment to her son, petitioner No.2, as he was a minor at the time of death of Desh Raj, and had qualified the Senior Secondary examination. Her request turned down by respondent No.3 vide order dated 30.01.2023, Annexure P-9, which has been impugned herein.

3. Sole submission of the counsel for the petitioner is that she could not take up the appointment offered to her because of unavoidable circumstances and her illness, but she had been constantly responding to the letters issued to her by the authorities and when her son attained majority and acquired the requisite qualification, her representation for compassionate appointment of her son was rejected by order impugned herein, which cannot be sustained.

4. I have considered the respective submissions of the counsel for the parties.

5. Appointment on compassionate basis is not a bounty or a windfall, which can be availed of by the dependents of the deceased at their convenience. The objective of providing financial assistance or compassionate appointment is to enable the family of the deceased to meet the sudden financial crisis, which the family faces because of the untimely demise of the bread winner. The purpose being to provide succor to the family of the deceased, so that they can sustain themselves in the absence of the head of the family. It is not a normal source of recruitment and cannot be delayed for years together.

6. The intention and objective behind this laudable policy of the Government has been noticed and discussed by the Hon'ble Supreme Court in *State of West Bengal Versus Debabrata Tewari and others, 2023 SCC Online SC 219*, wherein, it has held that compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure. Apex Court has held that it is not a vested right which can be exercised at any time in future and compassionate employment cannot be claimed or offered after the crisis is over.

7. Facts of the present case have to be examined in the light of the settled legal position. Undisputedly, petitioner No.1 was repeatedly given an offer of appointment on ex-gratia basis, which she did not avail. This in fact shows that the petitioners were not in a dire financial need. The reason given by petitioner No.1 for not taking up the employment offered by the

respondents appears too flimsy. Rather facts give an impression that the representation for compassionate appointment of petitioner No.2, who has attained the age of thirty six years, has been made more as an after thought. This Court is of the opinion that the claim has been raised by the petitioner out of avarice and there was no necessity for the same.

8. In view of the above legal and factual position, this Court is of the opinion that the petition lacks merit and is hereby dismissed.

(SUVIR SEHGAL)
JUDGE

15.05.2023
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes