

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

(222)

CWP-17180-2017

Date of Decision : August 22, 2023

Darshna Rani**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Manav Dhull, Advocate, for
Mr. Ramesh Goyat, Advocate, for the petitioner.

Mr. Harish Rathee, Sr. Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Present petition has been filed challenging the action of the respondents in giving appointment to the petitioner to class IV post.
2. It may be noticed that the husband of the petitioner namely Sh. Mohan Lal was working as Multi Purpose Health Worker with the respondents and he unfortunately died while in service on 20.09.1992. The petitioner, who is the widow of Sh. Mohan Lal claimed the benefit of compassionate appointment and keeping in view the dispute between the family, she was directed to furnish a succession certificate before her claim for compassionate appointment could be considered. Keeping in view the said requirement, the petitioner submitted a succession certificate to the respondents and requested that her claim for the grant of compassionate appointment may kindly be considered. As the said benefit was not being

extended to the petitioner, the petitioner filed CWP No.1994 of 1997 seeking direction to the respondents to grant her the benefit of her compassionate appointment, which writ petition was disposed of by this Court by giving direction to the respondents to decide the claim of the petitioner in a time bound manner.

3. After the direction was given by this Court to consider the claim of the petitioner, the respondents appointed the petitioner on class IV post vide order dated 23.02.2000. On the said post, the petitioner is already working.

4. The grievance of the petitioner is that as the husband of the petitioner was working on a class III post, keeping in view the qualification of the petitioner, she should have been accommodated on a class III post instead of a class IV post.

5. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that in the present case, after the offer of appointment on class IV post, the petitioner has accepted the said offer and has already joined hence, once the petitioner accepted the compassionate appointment on class a IV post, the petitioner is estopped from claiming class III post. The claim of the petitioner has been further contested on the ground that as per the instructions for the grant of compassionate appointment, the compassionate appointment can only be granted on one step lower than the post on which the deceased was working and therefore, as the deceased was working on class III post, the petitioner has rightly been offered class IV post and therefore, the claim of the petitioner is liable to be rejected.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. It is a settled principle of law that compassionate appointment is a concession given by the State to mitigate the hardships of the family of the deceased and is not source of appointment. Once, the compassionate appointment is not the source of appointment, the respondents can set terms and conditions for the grant of compassionate appointment. In the present case, the petitioner has already been granted the compassionate appointment on a class IV post as the husband of the petitioner was working on class III post.

8. Learned counsel for the petitioner has not been able to rebut the contention of the State that the compassionate appointment is only admissible to a post lower than the one held by the deceased at the time of death.

9. That being so, once the husband of the petitioner was holding class III post, the petitioner has rightly been appointed on class IV post and she cannot raise any grievance especially when she has already been appointed on a class IV post and she is working.

10. Even otherwise, as per the settled principle of law, once the petitioner has already accepted the appointment on a class IV post, she cannot raise the grievance so as to claim a higher post on compassionate ground. The said law has already been settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.2061-2015 titled as The Rajasthan State Road Transport Corporation and others vs. Revat Singh, decided on 20.02.2021***. The relevant paragraph of the said judgment is as under:-

“8. In I.G. (Karmik) and others v. Prahalad Mani Tripathi, 2007 (3) S.C.T. 483 : (2007) 6 SCC 162, this Court has held that compassionate appointment cannot be granted to a post for which the candidate is ineligible. It is further held in the said case that even though higher post was applied for on

compassionate ground, when a lower post offered considering qualification and eligibility as per rules was accepted by the candidate, he cannot claim higher post.”

11. Keeping in view the above, no ground is made for the grant of prayer as raised in the present petition.

12. Dismissed.

August 22, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No