

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

CWP-26181-2014

Date of decision : 20.02.2023

Mandeep Kaur

..... Petitioner

versus

**Special Secretary to Govt. of Punjab Department of Cooperation and
others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. H.S. Bedi, Advocate
for the petitioner.

Mr. Rajesh Mehta, Additional A.G., Punjab.

Mr. Vikas Singh, Advocate
for respondent No.4.

PANKAJ JAIN, J. (Oral)

Present writ petition has been filed seeking writ in the nature of certiorari against the order dated 02.09.2014 passed by Special Secretary Cooperation Department (Annexure P-5).

2. Petitioner claims to be daughter-in-law of Piara Singh who was working as Secretary in the Cooperative Society-respondent No.4. Shri Piara Singh unfortunately died. The petitioner sought compassionate appointment and the same was granted. However, the matter travelled upto Special Secretary in revision, whereby the claim of the petitioner was ordered to be denied observing as under:-

“xx xx xx

6. I have heard the arguments of the counsel and perused the record available on the file. From the facts mentioned above, it is clear that according to the instructions of the RCS, the sanctioned staff strength of the society is only three but at present four employees

are working in the petitioner Society and no post is vacant. Respondent no.3 is a daughter-in-law of deceased Piara Singh, Secretary of the Society. A daughter-in-law is not a dependent as per guidelines issued by the government from time to time. The petitioner counsel has stated that her husband has agricultural land and this point was not denied by the counsel for respondent no.3. The instructions of the Registrar are very clear on the point that for grant of employment on compassionate grounds, no fresh post would be created. As stated by the Society at present there are already four employees are working against the sanctioned strength of three.

7. It is correct that to provide bread and butter to the family of deceased employee provision has been made for granting compassionate employment. However, the policy of compassionate employment very clearly states that such employment is meant to help the family tide over the financial crisis consequent upon the death of the bread winner in the family. It cannot be claimed as a matter of right. In the instant case, daughter in law is the applicant who cannot be termed as a dependent of the deceased; her husband owns land and as such there is no such financial crisis in the family. Therefore, keeping in view the above, I accept the revision petition and set aside the orders of the courts below.”

3. Counsel for the petitioner submits that the compassionate appointments in the Cooperative Society, Punjab are governed by policy dated 05.10.1994 placed on record as Annexure P-1. Reliance is being placed upon covenant as contained in clause (v). He submits that the petitioner being family member as well as dependent on her father-in-law is entitled for the compassionate appointment. Thus, the order passed by the revisional authority being in teeth of the policy deserves to be quashed and

the petitioner is entitled for compassionate appointment.

4. Per contra, Mr. Vikas Singh submits that neither the petitioner is legal representative of the deceased Piara Singh nor she was dependent on her father-in-law being legally wedded wife of Pavitar Singh s/o late Piara Singh. If any claim for maintenance is filed at her behest, the same would be against Pavitar Singh and not Piara Singh. He further submits that the petitioner even if held to be dependent on deceased would not fall within the ambit of 'legal representative' and thus no fault can be found to the decision of the authority in denying the claim of the petitioner for compassionate appointment.

5. Mr. Mehta supports the contention raised by Mr. Vikas Singh.

6. I have heard counsel for the parties and have gone through the records of the case.

7. The policy dated 05.10.1994 reads as under:-

“The demand of the employees of the Primary Cooperative Societies, that if an employee dies during the period of service then one of his dependents be given appointment on compassionate ground as is being done in this regard by the Govt. with their employees. This matter has been considered, but the societies are not able to appoint as the Government appoint the one of the dependent after the death of an employee. Even then by taking sympathetic view, it is directed that if any employee dies during the period of service in the primary cooperative societies, one of the dependents be appointed on the compassionate grounds provided he/she fulfills the written conditions:-

- I) The society has vacant post. No new post be created for appointment.
- ii) The applicant candidate is required to fulfill essential qualifications against the post.

- iii) The competent authority to issue death certificate regarding deceased member.
- iv) No outstanding is against the deceased employee, nor any dispute is pending for the recovery of the amount.
- v) The applicant is to be family member of the deceased and be LR as well as dependent.
- vi) The other dependents of the deceased to furnish affidavit have no objection if he/she is appointed in service.
- vii) The applicant would undertake that if any recovery of the amount due to the society comes up, he/she would be liable to pay.”

8. The reliance placed upon clause (v) thereof is totally misconceived and misplaced. Counsel for the petitioner does not deny that the petitioner cannot be construed as LR of the deceased Piara Singh. Faced with the situation, Mr. Bedi submits that since LR of the deceased Piara Singh namely Pavitar Singh has already given NOC in favour of the petitioner, she should have been construed as LR.

9. I am unable to accept the aforesaid contention. Petitioner is neither the one who represents the estate of deceased Piara Singh by operation of law nor is one of the legatees under Will of the deceased. Right of being legal representative is not assignable, but is governed by law. By assignment by LR of Piara Singh, she may acquire status of assignee under LR but cannot claim herself to be LR of Piara Singh. Apart from that, it is settled proposition of law that compassionate appointment is in fact a backdoor entry and is an anti thesis to Article 14 and 16 of the Constitution of India. Resultantly, any policy providing for compassionate appointment has to be strictly construed and would not call for liberal interpretation.

10. In view of the aforesaid fact that the petitioner could not claim to be LR of deceased Piara Singh, no relief as claimed in the present writ petition can be granted.
11. Consequently, the present writ petition is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

20.02.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No