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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18737-2023 (O&M)
Date of Decision: 25.08.2023

Gagandeep Singh

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. Sunil Agnihotri, Advocate, for the petitioner.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner by way of this Writ Petition has claimed that he should be now appointed on group C post as he possesses the qualification for the said post.
2. The petitioner after having been appointed as a class IV employee again submitted a representation that other persons who were given opportunity to acquire higher qualification and were thereafter appointed on group C post, the petitioner too had sought permission to acquire higher qualification so that he may be appointed as a patwari, but the respondents offered appointment on the post of class IV only.
3. The petitioner, being in a situation where he required immediate monetary help, accepted the job of class IV category. However, the respondents be directed to consider him for a higher post of group C. This Court vide order dt.24.11.2021 (P-17) disposed of the writ petition in view of the request made by the petitioner that he would be satisfied in case his representation is decided expeditiously. The court accordingly directed the respondents to decide the representation in accordance with law by passing a speaking order within a period of 4 months.

4. The respondents have passed an order against which the present Writ Petition has been filed, as the respondents have rejected the claim of the petitioner.
5. Learned counsel submits that while rejecting the claim of the petitioner, there is an observation of the authority that the concerned appointing authority ought to have given him time to improve his qualifications so that he may be appointed on group C post, but in a wrongful manner he was offered a group D post. However, despite such observation, the petitioner was not offered group C post.
6. I have considered the submissions.
7. This Court finds that the Apex Court in the case of ***State of M.P. and others vs. Ramesh Kumar Sharma***¹, held as under:

“3. Learned counsel for the appellants has contended that under the instructions in question the respondent is not entitled to a higher post of his choice merely because he fulfils the requisite eligibility qualifications. Learned counsel for the respondent has attempted to defend his case by citing the illustration of another applicant- Rajiv Dwivedi who, according to him, was appointed in similar circumstances as APP, Grade II. The facts relating to Rajiv Dwivedi are not on record and it is the mere assertion of the respondent that the circumstances are identical. Even assuming that Rajiv Dwivedi's case was similar to that of the respondent, the applicant has no right to any particular post of his choice, he can only claim to be considered for that post. It would ultimately be for the authority to decide if some common principle was involved in the two cases. If a mistake was committed in an earlier case, that cannot be a ground for directing the State to perpetuate the error for all times to come. Learned counsel for the respondent has not been able to show before us any rule or Government instructions under which the respondent can claim the post of APP, Grade II.

4. In these facts and circumstances, we think that the Tribunal was not right in allowing the case of the respondent. Accordingly, the appeal is allowed, the impugned judgment is set aside and the prayer of the respondent for his appointment as APP, Grade II is rejected. It will, however, be open to the respondent to indicate his agreement to accept the post of lower division clerk which was offered to him by the appellants in

¹ 1994(3) SCC 661

1988 and if he does so, the appellants shall promptly appoint him against that post.”

8. This Court finds that apart from above law as stated, there is circular issued by the Government dt.21.11.2002 which mentions that once a job is obtained on compassionate grounds, the application filed for appointment on a higher post has to be rejected. The language of the order dt.21.11.2002 deserves to be quoted:

*"When a person has been appointed on compassionate grounds to a particular post, the set of circumstances, which led to such appointment, should be deemed to have ceased to exist, therefore:-
He/she should strive in his/her career like his/her colleagues for future advancement any request for appointment to any higher post on considerations of compassion should invariably be rejected.
An appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on consideration of compassion should invariably be rejected."*

9. The said circular issued by the State Government is under challenge before this Court. Even otherwise, this Court agrees with the said instructions as the same is in consonance with the principle underlying offering of compassionate appointment.

10. In view of above, the present Writ Petition is misconceived and is accordingly **dismissed**.

11. Pending application(s), if any, also stands disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

August 25, 2023

Mohit goyal

1. Whether speaking/reasoned?	Yes/No
2. Whether reportable?	Yes/No