

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

203

CWP-9903-2013

Date of decision: 23.01.2023

MALWINDER SINGH

..Petitioner

Versus

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pardeep Bajaj, Advocate
for the petitioner.

Mr. R.K. Kapoor, Addl. A.G. Punjab.

ANIL KSHETARPAL, J(Oral)

1. On account of death of the petitioner's father on 07.02.2009, the petitioner was offered an appointment as a Patwari on a compassionate basis, subject to clearing one year patwar training in the Patwar Training School, Jalandhar.
2. During the course of training, two FIR's, FIR No.119 dated 12.10.2010, under Section 379 of IPC and FIR no.17 dated 16.02.2011, under Section 392 of IPC were registered against the petitioner.
3. He failed to complete the aforesaid training. It is the case of the respondent that he remained continuously absent from the training since 02.02.2011, resulting in cancellation of his candidature. The petitioner prays for issuance of a writ in the nature of certiorari to quash orders dated 21.11.2011, 18.05.2012 and 01.03.2013.
4. Vide order dated 21.11.2011, the appointing authority has cancelled his candidature, whereas, vide order dated 18.05.2012, his request for restoring his name as a patwar candidate has been rejected. Vide order

dated 01.03.2013, the Commissioner, Patiala Division, Patiala, has dismissed the petitioner's appeal.

5. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

6. The learned counsel representing the petitioner contends that another candidate namely Varinder Singh was co-accused in FIR No.17 dated 16.02.2011, who has now been reappointed as a Patwari. He contends that the petitioner also deserves the same relief on account of parity.

7. On the other hand, the learned counsel representing the State contends that the petitioner is involved in yet another case i.e. FIR No.119 dated 12.10.2010. He further submits that the petitioner has also not completed the patwar training necessary for appointment as a Patwari.

8. It is well a settled rule that equality before law is a positive concept and it cannot be applied to equate negatively. If such equality is permitted, it may result in perpetuating the illegality which was never the vision of the Constitution of India. The petitioner seeks employment on a compassionate basis. He has been involved in two criminal cases. In such circumstances, the State cannot be compelled to give employment to the petitioner. Moreover, nearly 14 years have elapsed. The entire purpose of granting compassionate appointment is help the family of the deceased in the situation of immediate difficulty, which the family of the employee dying in harness faces.

9. After a period of 14 years, the aforesaid situation cannot be invoked to grant relief.

10. Keeping in view the aforesaid discussion, the writ petition is dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

January 23rd, 2023
Ay

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No