

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

CWP-822-2015 (O&M)

Date of decision: 02.03.2023

Priyanka

....Petitioner

Versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Puneet Kansal, Advocate for the petitioner
Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J (Oral)

1. On 1st March, 2023, the following order was passed by
this Court:-

“The petitioner prays for issuance of a writ in the nature of Certiorari to quash the order dated 29.05.2009, whereby her request for appointment on compassionate basis has been rejected. The petitioner's father died in harness on 18.03.2007. She submitted application for appointment on compassionate basis in terms of instructions issued in the year 2002. Her application was rejected in 2009.

Learned counsel representing the petitioner submits that interim order dated 19.12.2022 has not been complied with.

Appointment on compassionate basis is a concession extended by the State in order to support the member of the family, who may not be left with any source of income after the death of their sole bread earner. The purpose of such recruitment gets defeated, if the cases are considered after a period of more than 15 years.

Shri R.S. Pandher, Sr. DAG, Punjab, has informed the Court that petitioner's mother was already in Government service when the petitioner's father died.

Keeping in view the aforesaid facts, learned counsel representing the petitioner is requested to come prepared for final arguments.

Adjourned to 02.03.2023.

To be shown in the urgent list.”

2. The learned counsel representing the parties have been once again heard at length. Learned counsel representing the petitioner while referring to the interim order dated 19th December, 2022 submits that the aforesaid order is final between the parties and hence, the State Government can only file an appeal before the Division Bench. He submits that this Court, while sitting in Single Bench cannot overlook the judgment passed by the co-ordinate Bench on 19 December, 2022. He further submits that the mere change of roster will not entitle this Bench to vary from or change, the order which has already been passed in favour of the petitioner by the coordinate Bench. He submits that in any case the State can only file a review application, which can be listed before the same Bench that passed the order on 19.12.2022. He further submits that a perusal of the order dated 19th December, 2022 shows that it has attributes of a final order. Hence, this Court cannot change or alter the said decision.

3. On the other hand, learned counsel representing the respondents submits that the petitioner's mother was already employed as S.S. Mistress when the her father died. While referring to the instructions dated 21st November 2002, he submits the petitioner's father was not the sole bread earner in the family and the petitioner being a married daughter was not entitled for job as the dependent of the deceased. He further submits that now after the passage of nearly 16

years the petitioner cannot be offered appointment on the compassionate basis.

4. This Court has considered the submissions of the learned counsels representing the parties and examined the paperbook.

5. At this stage, it would be appropriate to extract the order dated 19 December 2022:-

It appears prima facie that while passing the orders i.e. 29.05.2009, 12.08.2009 & 23.07.2012 (P-2, P-3A & P-11), respectively, respondent(s) did not assign any reason(s); rather these are totally non-speaking.

Still further, learned Counsel for the petitioner contended that merely one of her parents was working in government job cannot be a ground to ipso facto reject her claim in view of the fact that benefits were granted to the similarly situated persons and which is not in dispute.

Faced with the above situation, learned State Counsel fairly acknowledged that in view of the communication dated 18.05.2010 (P-5), case of the petitioner shall be re-examined by the quarter concerned within six weeks from today.

Posted on 01.03.2023.

Let needful be done as per law before the date fixed.”

6. It is evident that the Brother Judge passed the interim order on the prima facie observations as noticed in the order. These orders are only interim in nature and cannot be held to have given final observations. Such kind of interim orders are subject to change and are passed in order to solicit response from the respondents, during the course of the various hearings. Hence, the argument of the learned counsel that such order has the attributes of the final and a binding judgment has no substance. For the same reasons, there is no requirement

of filing an appeal or review against the order dated 19 December 2022.

In **Umesh Kumar Nagpal vs. State of Haryana and others (1994) 4 SCC 138**, the Supreme Court held that the appointment on compassionate basis is only a settlement provided by the State in order to immediately help the family, who may not be left with any source of income on account of the untimely death of the sole bread earner. A compassionate appointment cannot be claimed as a matter of right rather, it is a concession which is extended by the State to settle the loss suffered due to the death. It is specifically provided in the instructions that the object of the instructions is to help the family at the time of death of their sole bread earner. In the present case, the petitioner's mother was already employed and hence, the petitioner's father was not the sole bread earner.

7. Keeping in view the aforesaid facts and discussion, this Court does not find it appropriate to issue the writ, as prayed for.

8. Hence, dismissed.

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

02.03.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE