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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9512-2014 (O&M)

Date of Decision: 30.11.2023

ASTHA ACHARYA

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. R.S. Manhas, Advocate,
for the petitioner.

Mr. Vishnav Gandhi, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner is the daughter of the deceased Government Servant who has approached this Court for seeking compassionate appointment.

2. It is stated that initially, an application for seeking appointment on compassionate grounds was submitted by the brother of the petitioner and the petitioner too had submitted an affidavit to waive off her right for claiming compassionate appointment. Mother of the petitioner had already expired. However, as the petitioner's brother was found involved in a criminal case, the petitioner, having no hopes for being given due support by her brother, submitted her application for compassionate appointment instead of her brother. Her application was initially considered, but was rejected by the respondents stating that they had already offered compassionate appointment to her brother.

3. Learned counsel for the petitioner has pointed out that the petitioner's brother had been convicted for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985 on 30.07.2008. He was punished with one month simple imprisonment and thereafter, the respondents offered appointment to the petitioner's brother on 01.10.2009, but when he went to join the Government service, he was disallowed to join on the ground that he was already convicted in a criminal case on the basis of the police verification report.

4. Thus, learned counsel for the petitioner submits that no person was given appointment on compassionate grounds and the petitioner, who was unmarried daughter at that relevant time, was entitled to be considered for appointment.

5. Learned State counsel has relied on the provisions contained in the Policy to submit that request for change in person for compassionate appointment is to be rejected and the person cannot be offered appointment.

6. I have considered the submissions of the learned counsel for the parties.

7. It would be apposite to quote Clause 15 of the Policy relating to compassionate appointments to the dependents of the deceased government servants as under:-

"15. REQUEST FOR CHANGE IN POST/PERSON

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,

(a) he/she should strive in his/her career like his/her colleagues for future advancement and any request for appointment to any higher post on considerations of compassion should invariably be rejected.

(b) an appointment made on compassionate grounds cannot be transferred to any other person and any request for the same on considerations of compassion should invariably be rejected.”

8. On perusal of the aforesaid provisions, it is apparent that once a person has been appointed on compassionate grounds to a particular post, the set of circumstances namely the compassionate appointment on account of death of the deceased Government servant would cease to exist i.e. no other person can claim compassionate appointment after a person has been appointed.

9. Clause B also restricts to transfer to any other person, the appointment offered by the Government to one of the siblings. However, if we examine the facts of the present case, the aforesaid provisions will have no application as the respondents although issued appoint order on 01.10.2009, they did not allow the said person to join. Thus, he was not actually appointed on any post. The appointment order has thus remained a mere document and had no effect. No person can be said to have been appointed on compassionate grounds.

10. It is noticed that if one person who has applied is found to be ineligible for appointment, other persons in the family, who were also dependent, can always be appointed.

11. Since the petitioner, who is a sister of the person who has been found ineligible for appointment, had also applied, she is entitled for consideration for appointment on compassionate grounds.
12. The respondents' action of rejecting the claim of the petitioner is found to be unjustified. Accordingly, this Writ Petition is **allowed** and the order dated 15.05.2013 (Annexure P-7) is quashed and set aside. The respondents shall take steps to offer suitable employment on compassionate grounds to the petitioner, if she is found otherwise eligible.
13. It is made clear that the subsequent circumstances as informed by the petitioner's counsel of her getting married would not come in way of the petitioner for consideration for the said appointment.
14. The exercise shall be completed within a period of three months henceforth.
15. No costs.
16. Pending application(s), if any, shall stand(s) disposed of.

November 30, 2023

Ess Kay

[SANJEEV PRAKASH SHARMA]

JUDGE

Whether speaking / reasoned : *Yes/No.*

Whether Reportable : *Yes/No*