

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

CWP-4383-2017 (O&M)
Date of decision: 29.03.2023

Satpal

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. Hitesh Pandit, Advocate for the petitioner
Mr. D.K.Singal, Addl. AG, Punjab
Mr. Harinder Sharma, Advocate for respondent no.4

ANIL KSHETARPAL, J (Oral)

1. Essentially the competing claims between the writ petitioner and respondent no.4, for appointment on the compassionate basis, have come before the Court. In the first round, the writ petition filed by the petitioner was disposed of with a direction to the respondents to decide the representation filed by him. In the second round vide judgment dated 18.05.2016 the writ petition was allowed, however, it was specifically directed that the services of respondent no.4 shall not be terminated. Concluding part of the order reads as under:-

“Resultantly, this Court is of the opinion that the order dated 30.03.2012 (Annexure P7) is not sustainable and the same is quashed. However, it is made clear that by quashing of the said order, services of respondent No.4 shall not be terminated, on this account. Respondents No.2 & 3 are directed to re-decide the issue afresh, regarding the claim of the petitioner also, for compassionate appointment. It would always be open to the respondents also to provide employment to the petitioner, additionally, in case there is any such provision. The necessary exercise, as per the policy dated 19.09.2002, shall be conducted, within a period of 6 months, from the

receipt of the certified copy of this order.”

2. In Letters Patent Appeal No. 1141-2016, filed by the respondent no.4, the Division Bench reiterated the aforesaid direction in its order dated 08.07.2016, which reads as under:-

“(2) It may be mentioned here that the appellant who got married with the deceased employee after he had divorced his first wife, has since been appointed as a Peon under the ex gratia policy on 22.09.2011. She has a minor daughter out of the above-stated wedlock. Keeping these attending circumstances in view, learned Single Judge vide order under appeal has further directed that “it is made clear that by quashing of the said order, services of respondent No.4 shall not be terminated, on this account”. In other words, learned Single Judge has consciously directed the authorities that while re-considering or accepting the claim of first respondent for appointment on compassionate grounds, services of appellant are not to be terminated. In view of the above-stated categoric direction, we see no reason for the appellant to file the instant appeal. The same is accordingly dismissed as premature, however, with liberty to seek revival in the event of any adverse order is passed against her.

(3) Ordered accordingly.”

3. Now in the next round the petitioner assails the correctness of the order passed by the competent authority in the month of February, 2017. It has been observed that there is no provision that allows the appointment of more than one dependent of a deceased employee on the compassionate basis.

4. The learned counsel representing the petitioner, while primarily challenging the appointment of respondent no.4 on compassionate basis, submits that there was no valid marriage between respondent no.4 and late Sh. Darshan Singh, and hence, she was not entitled to be appointed on the compassionate basis. He further relies

upon the legal heir certificate issued by the office of the Deputy Commissioner, UT, Chandigarh.

5. As far as the appointment of respondent no.4 on compassionate basis is concerned, the matter stands concluded in the second round of litigation way back in 2016. As regards the retiral benefits, the parties in the civil suit have agreed to apportion equally.

6. The petitioner's father is stated to have expired in the year 2010. An appointment on the compassionate basis is not another source of regular recruitment. It is only a concession extended by the Government in order to help the family of the deceased employee to come out of a desperate situation on account of the death of their sole bread winner. In such circumstances, once the respondents have already given an appointment to respondent no.4, which stands protected by the final judgment of the Court, this Court does not find it appropriate to issue any other writ.

7. Hence, dismissed.

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

29.03.2023

rekha

Whether speaking/reasoned :

Yes/No

Whether reportable :

Yes/No

(ANIL KSHETARPAL)
JUDGE