

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7847-2018

Date of decision : 06.02.2023

Sonia

..... Petitioner

versus

Punjab State Power Corporation Ltd. and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. B.D. Sharma, Advocate
for the petitioner.

Ms. Monika Chibbar Sharma, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

Petitioner seeks writ in the nature of certiorari for setting aside the impugned order dated 01.06.2017 passed by respondent No.2 (Annexure P-7), whereby the claim of the petitioner claiming compassionate appointment has been rejected and found that worth consideration being married daughter and thus not covered under the policy instructions issued by State of Punjab dated 26.08.2011.

2. Father of the petitioner was working as a Peon with the respondent-Corporation. He died during service. Wife of the deceased-employee i.e. mother of the petitioner was appointed as a Peon on compassionate basis. She also unfortunately died on 07.10.2016 while in service leaving behind four married daughters including the petitioner. Petitioner claims that though she is married, but in abused relationship with her husband and there is a prolonged litigation between the two prior to death of her mother. She thus claimed that she is dependant upon her

deceased-mother. She further claimed that she having been thrown out of her matrimonial home was living with her mother prior to her death for 3-4 years. The claim projected is that though married the petitioner was dependant on her deceased mother who died in harness. Thus, the claim of the petitioner ought not have been rejected being not covered under the policy. Reliance is being placed upon order passed by Division Bench of this Court in ***LPA No.462 of 2021***, titled as '***State of Punjab and another vs. Amarjit Kaur***', wherein the Division Bench held that even a married daughter has a right to be considered under the policy and claim of the married daughter cannot be rejected merely on the ground of being married.

3. Ms. Sharma appearing for the respondent has relied upon the ***State of Maharashtra and another vs. Ms. Madhuri Maruti Vidhate***, reported as ***2022 AIR (Supreme Court) 5176*** to claim that the order passed by the Division Bench is in teeth of ratio of law laid down by Apex Court in the case of ***Ms. Madhuri Maruti Vidhate (supra)***.

4. I have heard counsel for the parties and have gone through the records of the case.

5. The short question is whether the classification made by the State in its policy for providing appointment on compassionate basis resulting in ouster of a married daughter from consideration under the policy can be held to be legal or not. Division Bench in the case of ***Amarjit Kaur (supra)*** has considered the ratio of law down by the Apex Court in ***Ms. Madhuri Maruti Vidhate (supra)*** and held as under:-

“xx xx xx

38. Similarly in Ms. Madhuri Maruti Vidhate (supra) the Apex Court was dealing with the issue of right of compassionate appointments which had been allowed by

the Maharashtra Administrative Tribunal and upheld by the Apex Court that after a period of 7 years from the date of death of the mother, the younger daughter had made an application for appointment after denial had been made by the elder married sister in the year 2011. Accordingly the order passed in favour of the applicant was set aside by taking into consideration that the appointments were an exception to the general rule under the said policy and there is no right to compassionate appointments which again operated in peculiar facts. Firstly, the Government employee had died and after that the mother had been appointed on compassionate grounds in that case. Unfortunately, she also died while in service and the elder daughter's request had been rejected on 18.08.2011 on the ground that she is a married daughter. The second application was filed in the year 2013 and the Original Application was filed in the year 2015, 2 years after the rejection order was passed in the year 2013. Accordingly, question was framed whether the respondent was entitled for appointment on compassionate grounds. Thus, it was on merits regarding the fact that there was delay in approaching the authorities by another sibling and thus, it would operate in peculiar facts and circumstances and not on the principle that consideration is to be denied to the married daughters in toto."

6. In the present case the positive case asserted by the petitioner is that she being in abusive matrimonial relationship was fully dependant on her mother at the time of her death and thus her right ought not have been rejected merely on the ground of being married. In the considered opinion of this Court, the case of the petitioner is fully covered by the ratio of law laid down by Division Bench in the case of *Amarjit Kaur (supra) ibid.*

7. Resultantly, the present writ petition is allowed. Impugned order dated 01.06.2017 (Annexure P-7) rejecting the claim of the petitioner merely on the ground of being married daughter is set aside. Respondents are directed to consider the case of the petitioner for compassionate appointment irrespective of the fact that she is married by ascertaining the fact of her being dependant on her deceased mother. The necessary action be taken within a period of 12 weeks from the date of receipt of certified copy of the order. In case the petitioner is found to be entitled for the appointment, the same be granted within a further period of 04 weeks. However, in case the authority found that the claim of the petitioner does not worth acceptance, the same be decided by passing a speaking order within a period as stipulated hereinabove.

8. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

06.02.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No