



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

CWP No. 3441 of 2019 (O&M)
Date of Decision : 20.11.2024

Rajneet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Virinder Kumar Shukla, Advocate for the petitioner.
Ms. Shruti, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the prayer of the petitioner is for quashing the order dated 17.03.2017 (Annexure P-3) by which, the claim of the petitioner for grant of compassionate appointment has been rejected only on the ground that the deceased employee had solemnized more than one marriage, which is illegal.
2. Learned counsel appearing on behalf of the petitioner argues that the petitioner is the daughter of Sh. Mukhtiar Singh born out of the first marriage and was very much entitled for the grant of compassionate appointment after the death of Sh. Mukhtiar Singh, who died while in service and merely that during the subsistence of the first marriage, Sh. Mukhtiar Singh solemnized the second marriage, cannot be a ground to deny a legitimate benefit for which the legal heirs of the deceased are entitled for.



3. Upon notice of motion, the respondents have filed the reply, wherein, they have stated that once, it has come on record that Sh. Mukhtiar Singh, the deceased had solemnized two marriages, which is an illegal act on his part, the benefit of compassionate appointment was declined to the petitioner. Learned counsel for the respondents submits that there are children who are born out of the second marriage and are also legitimate to be considered for appointment, hence, the petitioner's claim has rightly been rejected. The second argument being raised is that the application for the grant of compassionate appointment was filed after four years of the death and the same was liable to be rejected.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. Once, the petitioner is the daughter born out of the first marriage, merely that the deceased employee had solemnized second marriage during the subsistence of first marriage cannot be a ground to deny the benefit, which the legal heirs of the deceased employee are entitled for including the compassionate appointment. Even if, there are other children out of the second marriage, the respondents were bound to consider the claim of all and should have given appointment to the one who is most suitable keeping in view the facts and circumstances of the case including the age and other factors.

6. Learned counsel for the petitioner has already placed on record a compromise between the parties, a copy of which has been appended as Annexure P-4 that no children born out of the second marriage are claiming the benefit of compassionate appointment. That being so, the respondents



were under obligation to grant the consideration for the claim of the petitioner for the grant of compassionate appointment.

7. The second argument which is being raised by learned counsel for the respondents is that the claim was submitted after a period of four years. A bare perusal of the impugned order dated 17.03.2017 (Annexure P-3) would show that the same is not the ground taken to deny the said benefit. As per the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 1297 of 1977 titled as ***Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others***, decided on 02.12.1977, any objection not taken in the impugned order, cannot be made a ground to deny the benefit. The relevant paragraph 8 of the said judgment is as under :-

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In Gordhandas Bhanji case :

"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself".



8. Keeping in view the above, the impugned order dated 17.03.2017 (Annexure P-3) is set-aside. The respondents are directed to consider the claim of the petitioner for the grant of compassionate appointment keeping in view the facts and circumstances mentioned here-in-before and the said consideration be finalized within a period of eight weeks of the receipt of copy of this order.

9. Petition is allowed in above terms.

10. Pending miscellaneous application, if any, also stands disposed of.

November 20, 2024
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No