

**RA-CW-68-2020 in
CWP-16904-2012**

Suresh Kumar
Vs
State of Haryana and others

Present:- Mr. Sunil K. Nehra, Advocate,
for the applicant-respondent No. 4.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

Mr. Sparsh Chhibber, Advocate,
for Mr. Ashok Bhardwaj, Advocate,
for the non-applicant/petitioner.

Mr. Balwinder Sangwan, Advocate,
Mr. Savreet Singh Brar, Advocate,
Mr. Krishna Maurya, Advocate,
for the non-applicant/respondent No. 2.

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This is an application under Order 47 Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 seeking review of the order dated 16.01.2020 passed by this Court in the main writ petition.

Learned counsel for respondent No. 2 states that on the date of the application, respondent No. 4 was not working on the cut-off date i.e. 17.07.2009 which was further extended upto 31.05.2010.

Keeping in view the above fact, respondent No. 4 has to be taken as the dependent of ex-serviceman as he was not working on the date i.e. 17.07.2009 and this fact has not been disputed by learned counsel for respondent No. 2. In the order dated 16.01.2020, it has been so observed that respondent No. 4 was working from July, 2009 to April, 2012 and the details of his salary have also been given. Since he was not working on 17.07.2009, he had to be appointed taking him to be the dependent of ex-serviceman as on 17.07.2009.

Learned counsel for respondent No. 4 has referred to an advertisement (Annexure P-1) at page 30 of the paper-book, wherein it has been mentioned that the definition of word “Dependent of Ex-Servicemen” has to be considered in terms of the Haryana Government Letter No. 12/37/79-GS-II dated 21.11.1980.

The instructions dated 21.11.1980 have been reproduced by respondent No. 4 in his application at page 4 which read as under:-

“None of the persons mentioned below shall fall within the definition of word ‘Dependent of Ex-Servicemen’ in terms of Haryana Government Letter No. 12/37/79-GS-II dated 21.11.80

- (i) A person may be working on adhoc basis on the post advertised or somewhere else.
- (ii) A person may be unemployed at the time of making the application but he may have other source of income viz. from agriculture, trade, property, bank balance etc.
- (iii) A person who is a member of Joint Hindu Family and remains dependent upon the karta till there is partition in the family or he ceases to be a member of the Joint Hindu Family and is obliged to pass on or his income to karta and draws money for his subsistence from the pool of the joint Hindu Family with the consent of the karta.
- (iv) A candidate who is a member of the Joint Hindu Family is employed on adhoc basis but he is otherwise dependent on his father.”

None of the above-said conditions debar the person who is working as a Guest Teacher. Since keeping in view that counsel for respondent No. 2 has stated that on 17.07.2009 respondent No. 4 was not working as a Lecturer, the order dated 16.01.2020 is being modified as under.

The advertisement (Annexure P-1) was governed by the instructions dated 21.11.1980 for the purposes of considering the case of dependent of ex-serviceman and it was not to be governed by the instructions dated 11.10.2001. Further, respondent No. 4 was not working on 17.07.2009 which was the last date for making the application pursuant to the advertisement (Annexure P-1) and this fact is not being disputed by learned counsel for respondent No. 2. Hence, his appointment could not be quashed and the final result dated 01.06.2012 (Annexure P-9) with respect to respondent No. 4 is upheld.

RA-CW-68-2020, accordingly, stands disposed of.

(RITU BAHRI)
ACTING CHIEF JUSTICE

19.01.2024
Amodh Sharma