

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

112

2024:PHHC:053850-DB

LPA-892-2024

Date of Decision: 22.04.2024

Ekam Singh

.....Appellant(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Swarn Tiwana, Advocate,
for the appellant.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Consideration in the present letters patent appeal is to the order dated 22.03.2024 passed in CWP-6968-2024 whereby, the claim of the appellant-writ petitioner for transfer of the cadre from Punjab Armed Police to the District Police Cadre has been rejected.

2. The learned Single Judge noticed that it would be in violation of Section 4(b) of the Punjab Police Act, 2007 regarding change of cadre and also the fact that it was an appointment on compassionate grounds. The appointment had been granted on 27.09.2016 and thereafter the writ petitioner started representing for issuance of directions for appointment in District Police Cadre by filing CWP-8780-2022. The learned Single Judge has directed that the legal notice dated 07.10.2021 (Annexure P-7) be considered and a speaking order be passed. Resultantly, an order dated 18.01.2023 (Annexure P-10) was passed, which was subject matter of challenge before the learned Single Judge in CWP-6968-2024, which has been dismissed. Section 4(b) reads as under:-

“4. Subject to the provisions of this Act,-

*[(b) the officers of subordinate ranks of district police, armed
police, intelligence, investigation and technical and support*

services shall form separate cadres. Seniority of each cadre shall be maintained at the State level. Transfer of a member of one cadre to another cadre shall not be allowed. However, the officer of subordinate rank working in special operation group may be transferred to district police after the successful completion of the fixed tenure in special operation group as specified by the Government. In case an officer of subordinate rank is rendered completely or partially disabled during operations or training, the period of fixed tenure can be relaxed by the Director General of Police for the purpose of transfer to district police. The subordinate rank officer who opt for transfer to district police, if transferred, his seniority shall be placed at the bottom of the officers holding the same rank in the district police;]

3. We are of the considered opinion that the writ petitioner having been appointed on compassionate ground is not entitled as such for the demand as to in which cadre he should be adjusted in. The Apex Court in ***Umesh Kumar Nagpal vs. State of Haryana & others, 1994 (4) SCC 138*** has held that the appointment on compassionate grounds is an exception to the general rule and is only for the purpose of ensuring that the family does not face penury on account of the death of the bread earner of the family during the service and the family is saved from sudden exigency on that account. The relevant observations read as under:-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of Applications and met-it. No other mode of appointment nor any other consideration is Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule

which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The

exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

4. In such circumstances, we are of the considered opinion that the appointment having been accepted in the year 2016, the writ petitioner could not have agitated his grievance merely by serving legal notice and seeking consideration. Keeping in view the above settled principle of law, the extra ordinary writ jurisdiction is not to be exercised in such cases where the State was benevolent enough to grant the appointment at the first place.
5. It is also to be noticed that in the speaking order (Annexure P-10) also, it has been ordered that the writ petitioner can submit an application to the Additional Director General of Police, State Armed Police for his posting in any battalion of his choice within the Armed Police Cadre, apparently, only to relieve the petitioner of his family difficulties. However, the petitioner is still unsatisfied with the benefit granted.
6. In such circumstances, we are of the considered opinion that keeping in view the overall perspective, it is not a fit case whereby extra ordinary writ jurisdiction is liable to be exercised.
7. Accordingly, the present letters patent appeal stands dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

22.04.2024
shivani

(LAPITA BANERJI)
JUDGE