

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

251

CWP-14132-2019 (O&M)
Date of decision: 29.04.2024

Paramjit Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. S.S. Rana, Advocate for the petitioner

Mr. Swapan Shorey, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The present petition has been filed for quashing of reply dated 24.09.2018, directing the respondents to give the appointment on compassionate ground on regular basis in the regular pay scale from the date of his initial appointment.
2. Learned counsel restricts his prayer with regard to the petitioner having been appointed on contingent basis/compassionate grounds instead of offering regular appointment on the unfortunate demise of his father, who was working as police constable. Though the petitioner was granted regularisation vide order dated 21.09.2013, however, was required to be appointed on regular basis from the date of his original appointment. He further submits that his case is squarely covered by the judgment passed by Co-ordinate Bench of this Court in **Sanjeev Kumar vs. State of Punjab and Others** in CWP-17326-2009, decided on 05.09.2011, against which no LPA was filed, which reads thus:

“The petitioner seeks a direction for his appointment as a Sweeper (Safai Sewak) on compassionate ground on regular

basis.

The case unfolds the unfortunate story as to how the persons belonging to poorest section of the society are exploited by the Police Authorities under the garb of self styled executive instructions issued by the Head of the Department. This Court has not come across a single instance where a senior police officer dies in harness and his dependent family member is offered appointment on daily wages or contingent basis only. Infact, best of the posts are made available to them, many a times by overlooking the judgment of the Hon'ble Supreme Court in '**Umesh Kumar Nagpal V. State of Haryana**' 1994 C.S.Cases (SC) 138. On the other hand, when an occasion to appoint of a Class-III and Class-IV employee arises, all the Rules and Instructions are invoked to scuttle the employment. The instant case is also no exception. The only plea taken in the reply filed by the respondents to deny regular appointment to the petitioner is that he agreed for his appointment on 'contingent paid post. How a son of a poor sweeper, who himself is running from pillar to post for his employment as a Sweeper on compassionate grounds, would understand the implications of phrases like 'contingent paid post, is beyond one's comprehension.

The fact of the matter is that the father of the petitioner was a Sweeper in the police Department and he unfortunately died while in service on 03.01.2006 leaving behind his wife, three sons and two daughters. The petitioner applied for his employment on compassionate ground under the ex-gratia policy and his turn having come as per the priority list that he has been appointed against a vacant post but as a 'temporary contingent paid' Sweeper. The aggrieved petitioner has approached this Court.

Having heard learned counsel for the parties and on perusal of the record, I am satisfied that the appointment of the petitioner as a sweeper on 'temporary contingent paid' basis is wholly unfair, unjust and *per se* arbitrary. The solitary object of giving employment under the ex-gratia policy is to secure the source of livelihood for the family of the deceased employee. If a sword of temporary/contingent paid assignment keeps on hanging on the neck of the petitioner it is obvious that the very object behind the policy shall be frustrated. The non-application of mind by the authorities is further writ large as despite availability of a regular vacant post, the petitioner has been offered appointment on 'temporary contingent basis'.

For the reasons above stated, the writ petition is allowed. It is directed that the petitioner shall be treated to have been appointed as sweeper on regular basis w.e.f. the date of his original appointment with all the consequential benefits. The petitioner shall also be entitled to costs of Rs. 10000/- to be paid by the respondents.

3. Learned State counsel has been unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.
4. In wake of the aforesaid, the present petition is disposed of in terms of the judgment passed in **Sanjeev Kumar** (supra).

(AMAN CHAUDHARY)
JUDGE

29.04.2024
M.Kamra

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No