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AT CHANDIGARH

CWP-12791-2024

Date of Decision : May 28, 2024

.. Petitioner

Versus

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Dr. Uttam Kumar, Advocate, for the petitioner.

Mr. Harish Nain, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the claim of the petitioner has wrongly been rejected by the respondents for the grant of benefit of compassionate appointment.

2. Learned counsel for the petitioner submits that father of the petitioner who was working as Clerk in the Department of Irrigation Haryana, unfortunately died in the year 1999 after which, mother of the petitioner was given compassionate appointed on the post of Peon. As per the pleadings, the mother of the petitioner unfortunately died on 29.05.2019 after which, the petitioner raised the claim for the grant of compassionate appointment. The said benefit has been declined to the petitioner by the authorities concerned on the ground that the petitioner is already working as

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a Helper and is getting salary of Rs.13,500/- which is more than the family pension + DA hence, it cannot be said that the petitioner was dependent upon her mother so as to claim the benefit of compassionate appointment, which order of the respondents is bad.

3. Learned counsel for the petitioner further submits that once, 10% of the salary is being kept as a commission by the outsourcing agency hence, only the carry home salary of the petitioner is to be taken into account as to whether, the petitioner is eligible to get the benefit of compassionate appointment or not and not his total emoluments which are being paid to him while working as a Helper.

4. Learned counsel for the respondents submits that once the salary of the Helper is Rs.13,500/- which is not denied, merely that the carry home salary is less, will not entitle the petitioner to claim that he is entitled for the grant of compassionate appointment.

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

6. It is a conceded fact that while working on the post of Helper, the petitioner is getting salary of Rs.13,500/-. The petitioner submits that the said salary is not carry home salary as 10% is being deducted by the outsourcing agency and in case the same is deducted from the salary of the petitioner, the petitioner is eligible for consideration of compassionate appointment after the death of his mother. The said argument of learned counsel for the petitioner cannot be accepted as the salary is to be taken which is being paid qua the post on which the petitioner is working. Merely that he has agreed to give 10% to the outsourcing agency, will not mean that

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the petitioner is eligible for the grant of benefit of compassionate appointment.

7. No rule has been shown that the carry home salary is to be seen and not the salary of the post admissible to an employee working on the post concerned.

8. In the absence of any such rule shown to this Court, the order passed by the respondents treating the petitioner ineligible on the ground that the petitioner is already earning Rs.13,500/- which is more than the family pension + DA, needs no interference by this Court.

9. Dismissed.

May 28, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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