



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

248

CWP-15256-2022 (O&M)
Decided on :16.05.2024

YAMAN YADAV

. .petitioner

Versus

STATE OF HARYANA AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Sandeep Goyat, Advocate for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

HARSIMRAN SINGH SETHI , J. (Oral)

1. In the present petition, the grievance of the petitioner is that the petitioner is entitled for the grant of compassionate appointment under the Haryana Compassionate Assistance to the Dependents of deceased Govt. Employees Rules, 2003 but the said claim of the petitioner has been rejected by the respondents vide impugned order dated 12.08.2016 (Annexure P-7).
2. Certain facts needs to be mentioned for correct appreciation of the issue in hand.
3. The father of the petitioner namely, Prem Kumar was working as Constable in the department of police, Haryana. The petitioner was born on 28.12.1997. Unfortunately, the father and mother of the petitioner died on the same date i.e. on 01.07.2005 and the petitioner became orphan. Under 2003 Rules, option of ex-gratia appointment or ex-gratia financial assistance was available to the dependents upon the death of the employee



concerned and being guardian of the petitioner, the grand father of the petitioner was given the said option to choose the compassionate assistance. The grandfather of the petitioner opted for financial assistance of Rs. 2.5 Lakhs which was sanctioned vide order dated 29.04.2008.

4. In the year 2015, the grand father of the petitioner also died. After attaining the age of the majority, the petitioner claimed the benefit of compassionate appointment on the ground that the grand father of the petitioner had wrongly claimed financial assistance and he does not know as to whether, the said financial assistance has been used for the well being of the petitioner or not.

5. The benefit of compassionate appointment was denied by the respondents on the ground that a sum of Rs. 2.5 lakhs have already been paid to the grand father of the petitioner as the guardian of the petitioner, hence, no second benefit of compassionate appointment can be extended to the petitioner. The said decision of the respondent-State not to give compassionate appointment to the petitioner is under challenge in the present petition.

6. Learned counsel for the petitioner submits that the benefit of financial assistance or the compassionate appointment was available to the petitioner but the said benefit of financial assistance was wrongly claimed and extended by the department in the favour of the grand father of the petitioner, hence, the claim of the petitioner that he is entitled for the grant of the benefit of compassionate appointment de-horse the grant of the benefit of the financial assistance to his grand father cannot be denied.

7. Learned counsel for the petitioner further argues that the claim of the petitioner for the grant of compassionate appointment was to remain alive till the date he attained the age of majority hence, the petitioner should



have been allowed to take decision as to whether he wants the benefits of compassionate appointment or the benefits of financial assistance and the benefit of financial assistance extended to the grandfather of the petitioner was without any valid justification.

9. Learned counsel for the respondents on the other hand submits that the grandfather of the petitioner was issued the legal guardian certificate by the competent Court of law and on the asking of the legal guardian, the benefits of financial assistance were released to the grandfather on behalf of the petitioner who was the minor at that time.

10. Learned counsel for the respondents further submits that any action taken by the legal guardian has to be accepted by the petitioner, hence, once, the benefits of financial assistance as available under 2003 rules which was opted for by the guardian of the petitioner and the same was extended to the grand father of the petitioner, now the petitioner cannot take U-turn to contend that the grand father of the petitioner got the amount without any valid justification so as to grant him the benefit of compassionate appointment.

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

12. From the facts which have been narrated herein above, it is clear that the petitioner became orphan on the death of his parents on 01.07.2005. After the death of parents of the petitioner, the grand father was appointed as legal guardian of the petitioner by the competent Court of law. On the application of the legal guardian, the benefit of the financial assistance was extended in favour of the petitioner as far back in 2008. Now, terming the said grant of the benefit as arbitrary and illegally by alleging that the grand father was not competent to decide his fate, cannot



be accepted. Once, the competent Court of law had appointed the grandfather of the petitioner as his legal guardian vide judgment dated 19.10.2006 passed by the Civil Judge, Karnal, the petitioner cannot raise any grievance that the right to exercise the option under 2003 Rules, which he claimed after the attaining the age of the majority, was not available to his grandfather. Once, the benefit of Rs. 2.5 lakhs was taken in a manner required, the claim of the petitioner stands extinguished at the relevant time.

13. The argument of the learned counsel for the petitioner that the grand father of the petitioner does not have any authority to decide on his behalf, cannot be accepted. Once, the competent Court of law had declared the grandfather of the petitioner as his guardian and the guardian had exercised the bonafide option of the benefit of financial assistance, merely that the petitioner thinks that the said option was not favourable, will not turn the table around. The petitioner has to accept the decision with regard to the option exercised by the guardian at the relevant time..

14. Further argument of the learned counsel for the petitioner is that the petitioner does not know as to whether the amount of Rs. 2.5 lakhs was spent upon the petitioner or not.

15. In the present case, the said controversy cannot be decided as the same lies between the petitioner and his grandfather. Nothing has been brought on record that the amount of Rs. 2.5 Lakhs was never spent by the grandfather upon the welfare of the petitioner. In the absence of any document being placed on record, no such decision can be given, as only the bald statement has been raised by the petitioner at the time of hearing of the petition so as to support his claim regarding the compassionate appointment.

16. With regard to the argument of the learned counsel for the



petitioner that the claim of the petitioner should have been kept alive upto the date when the petitioner was to attain the age of majority it may be noticed that by the said argument, the petitioner is challenging the decision/option exercised by the guardian of the petitioner. Nothing has come on record that the exercise of option for the grant of benefit of financial assistance by the guardian of the petitioner was *malafide* in any manner so as cause any harm to the petitioner. In the absence of any *malafide* attached with regard to the decision of the grandfather of the petitioner, the same has to be treated as *bonafide* decision to opt for one relief, which the grandfather of the petitioner considered favorable so as to facilitate the upbringing of the petitioner. Hence, once, the right to claim the financial benefits was exercised and the amount of Rs. 2.5 lakhs with regard to the financial assistance was accepted and used, after the attaining the age of majority, the petitioner cannot turn around so as to accuse his grandfather to opt for a unfavourable option of financial assistance other then the compassionate appointment.

16 Keeping in view the above facts and circumstances recorded herein above, no ground is made out for any interference by this Court in the present petition, **hence, the present petition stands dismissed.**

17. Pending civil miscellaneous application, if any, stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

16.05.2024

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No