

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

(201)

CWP-16417-2015

Date of Decision : February 06, 2024

Vivek Kumar

.. Petitioner

Versus

State of Haryana and others

.. Respondents

ORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Aman Redhu, Advocate, for the petitioner.

Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that the petitioner is entitled for compassionate appointment on a Group C post, which prayer has wrongly been declined by the respondents vide reply dated 26.10.2013 to the legal notice, copy of which has been appended with this petition as Annexure P-11.

2. Learned counsel for the petitioner submits that as the father of the petitioner was working on a Group B post, the petitioner was entitled for the grant of compassionate appointment on Group C post keeping in view the qualification of the petitioner but the petitioner was being granted the benefit of compassionate appointment on a Group D post only, which is totally illegal and arbitrary.

3. As per the facts mentioned in the petition, the father of the petitioner was working in the Department of Education and while in service, unfortunately died on 13.08.2005. On the date, when the father of the petitioner died, he had approximately 29 years of service to his credit. After the death of the father of the petitioner, the petitioner claimed the benefit of compassionate appointment keeping in view the policy which was in

operation on the date of death of his father. As per the said request, the petitioner claimed a Group C post as the father of the petitioner, who was working as a Lecturer at the relevant time and was holding a Group B post.

4. Learned counsel for the petitioner submits that by the impugned reply to the legal notice, the respondents have stated that the petitioner can only be accommodated on a Group D post and his claim has not been considered by the respondents by treating the post of Lecturer as Group B post hence, the respondents are under an obligation to consider the claim of the petitioner for a Group C post keeping in view the fact that the father of the petitioner was holding a Group B post.

5. In reply to the claim, the respondents submitted that only 5% of the sanctioned post of a particular cadre can be filled on compassionate ground and as per the respondents, no post of Clerk was available. Learned counsel for the respondents submits that as there was no post of Clerk available, the petitioner was offered Group D post, which the petitioner never accepted hence, the claim of the petitioner already stood exhausted after the petitioner refused the benefit of compassionate appointment on Group D post.

6. Learned counsel for the petitioner submits that as per his information which he has received under the RTI, the petitioner has come to know that there were large number of Group C posts lying vacant on the date of the death of the father of the petitioner and even then his claim has wrongly been rejected by the respondents.

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

8. The grant of benefit of compassionate appointment is only to mitigate the hardship, which a family of deceased employee has faced. In

the present case, 19 years have passed since the death of the father of the petitioner and it is a conceded position that the respondents offered a Group D post to the petitioner which he refused on the ground that as the father of the petitioner was working on a Group B post, he is entitled for appointment on at least a Group C post on compassionate basis.

9. It may be noticed that as per the reply filed, the respondents have stated that there was no post of Clerk available with the Department so as to adjust the petitioner though, the said fact is being disputed by the learned counsel for the petitioner.

10. Nothing has come on record that Group C post was available when the petitioner was offered appointment on a Group D post. In the absence of any such material, no finding can be recorded in favour of the petitioner.

11. However, the petitioner will be free to bring to the notice of the respondents by way of representation that there existed Group C post so as to accommodate him on compassionate ground. The respondents are directed that in case any such material is brought to the notice of the Department by way of representation, appropriate order be passed considering the material which has been attached along with representation to claim the benefit of compassionate appointment on Group C post. Respondents are also directed that appropriate order be passed within a period of eight weeks of the receipt of any such claim from the petitioner.

12. The present writ petition is disposed of in above terms.

February 06, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No