

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

(212)

CWP-15244-2017

Date of Decision : May 07, 2024

Sanjog

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.K. Goel, Advocate and
Mr. Shvetanshu Goel, Advocate, for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Mr. Ishan Aggarwal, Advocate, for respondents No. 5 to 9.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the challenge is to the reply filed by the respondents dated 29.05.2017 (Annexure P-13) by which, the claim of the petitioner for the grant of financial assistance and other benefits to be paid to the family of the deceased as envisaged under the rules has been declined.

2. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

3. One Dharampal was appointed as Sweeper by the respondent-Department on 28.11.1990. Thereafter, his services were regularized and while in service, Dharampal unfortunately died on 09.07.2014. It may be noticed that Dharampal was not married and he had adopted the son of his brother i.e petitioner. The said adoption was acknowledged by the Sarpanch as well as Panches and even in the Will dated 19.09.2012 drafted by deceased Dharampal during his life time, it was stated that the petitioner has been adopted by Dharampal and all his movable and immovable properties

will belong to the petitioner. After the death of Dharampal, certain benefits arising out of the service rendered by Dharampal amounting to Rs.54,375/- were paid to the petitioner being the son. When the petitioner claimed the benefit of financial assistance on account of death of Dharampal, the respondents refused to grant the same on the ground that the petitioner has to first submit the adoption deed so that the petitioner should be treated as son of Dharampal before extending the benefit of financial assistance. As no adoption deed was submitted, the claim of the petitioner for the grant of financial assistance was not accepted by the respondents, which is being claimed in the present petition.

4. Learned counsel for the petitioner argues that once, from the Will, it has already come on record that while Dharampal was alive, he had adopted the petitioner as his son and had named him the beneficiary in his Will as son coupled with the fact that after the death of Dharampal, the respondent-Department themselves also treated the petitioner as son of Dharampal and extended the certain service benefits, hence, no u-turn can be taken by the Department while granting the benefit of financial assistance.

5. Learned counsel for the respondents, on the other hand, submits that once the adoption deed has not been submitted by the petitioner, no benefit of financial assistance can be given to the petitioner.

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

7. It may be noticed that the factum that the petitioner is son of Dharampal has already been acknowledged by the Department while giving him the certain benefit amounting to Rs.54,375/- on account of service benefits but the other benefits such as gratuity and financial assistance have

not been given to him and that too without any valid justification. Once, certain service benefits have already been given to the petitioner by treating him as son of Dharampal, the said status has to remain intact even qua the other benefits including the financial assistance. The Will wherein, it has been stated that the petitioner has been adopted as son by Dharampal and all his movable and immovable properties will be given to him, should be treated as valid document so as to grant the service benefits/financial assistance.

8. It is not a case that more than one person has come forward to claim the benefit of financial assistance. Only the petitioner is claiming the said benefit despite the fact that Dharampal had other brother and sisters. As no one has come forward except the petitioner and the petitioner has also brought on record certain documents including the Will where the petitioner has been stated to be the adopted son of Dharampal coupled with the fact that the respondents themselves acknowledged the petitioner as son of Dharampal while extending certain service benefits, therefore the other benefits including the benefit of financial assistance and family pension, the petitioner should be treated as a son.

9. Keeping in view the above, the present writ petition is allowed. The respondents are directed to treat the petitioner as adopted son of Dharampal for all intents and purposes and grant whatever benefit he is entitled for under the Rules including the benefit of financial assistance. Let the said benefits be released to the petitioner within a period of three months of the receipt of copy of this order.

May 07, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No