

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

(208)

CWP-23566-2013

Date of Decision : April 23, 2024

Davinder Singh

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Japsehaj Singh, Advocate, for
Mr. Aman Pal, Advocate, for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that his claim for the grant of compassionate appointment has been refused by the respondents on a ground which is contrary to the settled principle of law.

2. Learned counsel for the petitioner argues that the father of the petitioner was working on the post of Deputy Superintendent with the Department of Police and unfortunately died while in service on 22.07.2004. At the time of death, the father of the petitioner was working on the post of Deputy Superintendent of Police and immediately thereafter, keeping in view the policy which was in-vogue at the time of death of father of the petitioner, the claim was raised for the grant of compassionate appointment qua the petitioner on the post of Inspector. The matter was

kept pending and the said claim was decided by the respondents vide order dated 27.08.2013 (Annexure P-9) stating that as there was no vacancy in the cadre of Inspector, he was offered a sum of Rs.2.5 lacs as compassionate financial assistance, which was refused by the petitioner and even the Rules which were applicable for the grant of financial assistance at the time of death of father of the petitioner were amended in August 2006 according to which, there is no provision for ex-gratia employment hence, no employment can be offered.

3. Learned counsel for the petitioner submits that the Rules were amended in the year 2006 but as per the judgment of the Full Bench of this Court in ***CWP No.4303 of 2009 titled as Krishna Kumari vs. State of Haryana and others, decided on 20.04.2012***, the policy which was applicable at the time of death of an employee, is to be made applicable and not the policy which was applicable at the time of the consideration of the claim hence, the respondents are under an obligation to decide the claim of the petitioner for the grant of compassionate appointment under 2003 Policy, which was applicable at the time of death of father of the petitioner.

4. Learned counsel for the respondents submits that once it has been mentioned that there was no vacancy in the cadre of Inspector, merely that it has been mentioned that 2003 Rules have also been amended will not render the order as arbitrary, illegal and contrary to the judgment in ***Krishna Kumari's case (supra)***.

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

6. It is a settled principle of law that the policy issued for compassionate appointment, which was in operation at the time of death is to be made applicable and not the policy which is applicable at the time of

consideration of claim. Concededly, 2003 Policy was applicable at the time of the death of the employee hence, the respondents were under an obligation to consider the claim of the petitioner for the grant of compassionate appointment under the said policy and not under the policy which came into operation in August 2006.

7. Qua the argument that there was no post available in the cadre of Inspector, nothing has come on record that the vacancy in the said post was not available when the petitioner applied in the year 2004.

8. In the absence of the said clarity, the impugned order dated 27.08.2013 (Annexure P-9) is set aside and the respondents are directed to consider the claim of the petitioner afresh under 2003 Policy as to whether, keeping in view the number of posts available in the cadre of Inspector and the seniority position of the petitioner to claim the same under the compassionate appointment whether the petitioner is entitled for the grant of the said benefit or not.

9. Let an appropriate order be passed within a period of eight weeks of the receipt of copy of this order and the outcome of the said order be conveyed to the petitioner for his information and necessary action.

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

April 23, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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