



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

CWP No. 24320 of 2016 (O&M)

Date of Decision : 18.11.2024

Gurpreet Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. S.L. Chander Shekhar, Advocate for the petitioner.

Mr. Arun Gupta, Deputy Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that petitioner has been declined the benefit of compassionate appointment vide order dated 30.05.2016 (Annexure P-17), which is arbitrary and illegal and the respondents are liable to be directed to consider the claim of the petitioner for compassionate appointment.

2. As per the facts mentioned in the present petition, Sadhu Ram who was wedded to Smt. Sita Vanti had three sons and two daughters. In a terrorist attack, three sons of Sadhu Ram were killed. Keeping in view the fact that all the sons of Sadhu Ram were killed, Sadhu Ram along with his wife Smt. Sita Vanti adopted the son of her elder daughter on 14.02.1991 i.e. the petitioner. At the time of the adoption, the petitioner was four years old. Thereafter, Sadhu Ram also died and petitioner lived with Sita Vanti.

3. After passing of the matriculation examination, the petitioner claimed the benefit of compassionate appointment on 19.04.2014 under the



Policy which gave compassionate appointment to a member of family of a terrorist victim. The application of the petitioner was considered by the respondents and it came on record that the petitioner was adopted by Sadhu Ram and Sita Vanti but the claim of the petitioner for the grant of compassionate appointment was rejected on the ground that the said adoption was after the date Sadhu Ram suffered at the hands of terrorist, hence, in case of any adoption which is after the incident/death, the benefit of compassionate appointment cannot be given. The claim of the petitioner was rejected by the Deputy Commission, Ferozepur on the ground that the petitioner was adopted after the death of the sons of Sadhu Ram and Sita Vanti, hence no benefit of compassionate appointment can be given to the petitioner, which order is under challenge in the present petition.

4. Upon notice of motion, the respondents have maintained the said stand and submitted that though, as per the enquiry conducted after the application being filed by the petitioner seeking compassionate appointment, it has come on record that there was adoption deed of the petitioner executed by Sadhu Ram and Sita Vanti but, as the adoption was after the death of the sons of the couple, the claim of the petitioner for the grant of compassionate appointment has rightly been rejected.

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

6. The only question which arises in the present petition is whether, any adoption after the death of the concerned, the benefit of compassionate appointment can be given or not.



7. A Co-ordinate Bench of this Court, considered the said issue while passing order in **CWP No. 24521 of 2015** titled as ***Sukhwinder Kaur Vs. State of Punjab and others***, decided on 20.07.2016 (Annexure P-18). The Co-ordinate Bench came to the conclusion that once the adoption is not disputed but the adoption was after the death of the concerned, still the benefit of compassionate appointment can be claimed. The relevant paragraph of the said judgment is as under :-

“After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the impugned order is totally unreasonable. Husband of the petitioner, who retired from the BSF, was mistaken as a terrorist along with her minor son and three others was killed by the CRPF, as a result thereof, practically, the petitioner, not only became widow but also an orphan and in order to survive emotionally, she adopted her brother's son at the time of his birth and thereafter the adopted son is recorded in all the public documents i.e. the certificate issued by the Punjab School Education Board etc. as son of Gurcharan Singh and Sukhwinder Kaur and not the son of her natural parents. The policy dated 05.02.1996 appears to have been made to rehabilitate the families whose bread-winner is either killed or 100% physically handicapped either in terrorist action or by security forces by offering employment on compassionate ground either to the widow, dependent son, dependent unmarried daughter, adopted unmarried son or adopted unmarried daughter.

In the present case, the adoption is not of a major/adult person just in order to obtain the benefit of the policy rather the adoption took place even before the policy came into being. The adoption was for the purpose of giving support to the widowed



*petitioner in her old age and for that matter, her own brother came forward by giving his son in adoption to his sister. The objection raised by the respondents in the impugned order that the adopted son Jaskaran Singh is not the son of the deceased Gurcharan Singh is really fantastic because the petitioner has placed on record voluminous documentary evidence such as his academic testimonials in which he has been recorded as the son of Gurcharan Singh and not the son of his natural father. Even otherwise, as per [Section 12](#) of the Hindu Adoptions and Maintenance Act, 1956, after the adoption takes place, the ties of the adopted person are permanently disconnected with his natural family for all intents and purposes. Moreover, in [Kanwaljit Singh's](#) case (*supra*), relied upon by the counsel for the petitioner, this Court has categorically held that the son adopted by widow gets transplanted from natural parents to adoptive family and becomes son not only of widow but also of deceased husband of the widow.*

Keeping in view the aforesaid discussion, the present writ petition is hereby allowed, impugned order is set aside and the respondents are directed to consider case of the petitioner for the purpose of compassionate appointment to her adopted dependent unmarried son as early as possible, preferably within a period of 2 months from the date of receipt of certified copy of this order.”

8. In the present case, as the three sons of Sadhu Ram and Sita Vanti were killed in a terrorist action in 1989, the petitioner who is the son of the daughter of Sadhu Ram and Sita Vanti, was adopted as far back as 1991 i.e. after the loss of their sons in the terrorist attack.

9. Learned counsel for the respondents has not been able to differentiate that a direction has already been given by the Co-ordinate Bench



in *Sukhwinder Kaur's case (supra)* by treating a person adopted after the death of the concerned person to be entitled for compassionate appointment under the Policy for the terrorist victim, the claim of the petitioner has wrongly been rejected by the respondents and the said rejection is contrary to the findings recorded by the Co-ordinate Bench in *Sukhwinder Kaur's case (supra)*.

10. Keeping in view the above, the impugned order dated 30.05.2016 (Annexure P-17) is set-aside. The respondents are directed to consider the claim of the petitioner for the compassionate appointment. In case, the petitioner is found eligible in all respects, the petitioner should be allowed the benefit of compassionate appointment. The claim of the petitioner will not be rejected on the ground that the adoption of the petitioner was after the incident where the family of Sadhu Ram and Sita Vanti suffered at the hands of the terrorist. Let the consideration be completed within a period of eight weeks of the receipt of copy of this order.

11. Petition is allowed in above terms.

12. Pending miscellaneous application, if any, also stands disposed of.

November 18, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes