



CWP-9624-2014 and  
other connected matters

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

1. CWP-9624-2014  
Date of Decision : 06.05.2024

KANWALJIT SINGH ... PETITIONER

V/S

STATE OF PUNJAB & ORS ... RESPONDENTS

2. CWP-11901-2017  
SURINDER SINGH ... PETITIONER

V/S

STATE OF PUNJAB & OTHERS ... RESPONDENTS

3. CWP-3203-2015  
RAJIV KUMAR ... PETITIONER

V/S

STATE OF PUNJAB & ORS ... RESPONDENTS

4. CWP-19261-2018

HARSIMRANJIT SINGH ... PETITIONER

V/S

STATE OF PUNJAB AND ORS ... RESPONDENTS



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CWP-29947-2018

PARMINDER SINGH

... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr.G.S.Bal, Sr. Advocate with  
Mr. Dilshad S. Gill, Advocate  
for the petitioner in CWP-9624-2014.

Mr. J.S.Bhatia, Advocate and  
Mr. M.K.Sharma, Advocate  
for the petitioner in CWP-11901-2017, CWP-19261-2018 and  
CWP-29947-2018.

Mr. K.S.Dadwal, Advocate  
for the petitioner in CWP-3203-2015.

Mr. Aman Dhir, DAG, Punjab.

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**JAGMOHAN BANSAL, J. (Oral)**

1. By this common order, CWP-9624-2014, CWP-11901-2017, CWP-3203-2015, CWP-19261-2018 and CWP-29947-2018 are disposed of as issues involved and prayer sought in all the petitions are common. For the sake of convenience and with the consent of parties, the facts are borrowed from CWP-9624-2014.

2.. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 28.05.2013 (Annexure P-9) whereby his claim for appointment as Assistant Sub-Inspector (for short 'ASI') has been declined.



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3. The father of petitioner namely Nirmal Singh was working with respondent as ASI who was killed by terrorists on 17.08.1993 while he was on duty. The State Government vide circular dated 29.11.1989 (Annexure R-1) had framed policy for compassionate appointment of family members of police officials who have died while fighting against terrorism. As per policy, if an official holding rank of Constable or ASI dies, one of his family members would be entitled to post of Constable. If an official holding post of Sub-Inspector or Inspector dies, one of his family members would be entitled to the post of ASI. Concededly, father of the petitioner at the time of his death was ASI and policy dated 29.11.1989 was in vogue.

4. Mr.G.S.Bal, Sr. Advocate submits that this Court vide order dated 30.01.2013 in CWP No.21444 of 2010 had directed the respondents to consider claim of the petitioner for the post of ASI, thus, respondents were bound to offer him post of ASI instead of Constable. He has been deprived from his valuable right to rank of ASI and has been appointed as constable.

5. Mr. Aman Dhir, DAG, Punjab submits that concededly father of the petitioner was posted as ASI at the time of his death. The policy dated 29.11.1989 was in vogue and as per said policy, the petitioner was entitled to the post of Constable which he was offered and he accepted.

6. I have heard the arguments of learned counsel for the parties and perused the record with their able assistance.

7. The conceded position emerging from record is that father of the petitioner died on 17.08.1993 while he was on duty. He was killed by terrorists.



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In view of murder of petitioner's father by terrorists, he was entitled to appointment on compassionate ground. At that point of time, policy dated 29.11.1989 was in force. The petitioner, vide memo dated 02.04.1998, was offered post of Constable and he joined as Constable on 08.01.1999.

8. The petitioner is primarily hanging his claim on the order dated 30.01.2013 passed by this Court in CWP No.21444 of 2010. This Court by said order had directed the respondents to consider claim of the petitioner. The Court had never created right to the rank of ASI. The relevant extracts of the said order are reproduced as below :

*“Petitioner admittedly had applied for the post of an ASI. The candidature of the petitioner was duly considered by the respondents for the said post. It is not disputed that the petitioner fulfilled the educational qualifications and had also cleared the bench-mark fixed for a candidate to be appointed for the post of an ASI. He having cleared the required bench- mark and there being no justification or reason assigned for not accepting the candidature of the petitioner and issuing him appointment letter, the rejection of his claim for appointment to the post of ASI vide order dated 19.9.2006 (Annexure P-4) cannot sustain. The said order is totally silent with regard to the reasons as to why the petitioner was not granted the benefit of enlistment as an ASI. Even in the written statement, which has been filed by the respondents, no reasons have been assigned as to why the petitioner was not issued the appointment letter after his clearing the bench mark for appointment to the post of ASI. That being the position with regard to the merit of the claim*



*of the petitioner for appointment to the post of an ASI, the impugned order deserves to be set aside.*

*That apart, the objection which has been taken to the claim in the writ petition now is that the petitioner cannot be granted the benefit for the second time appointment under the compassionate appointment instructions as he having accepted the offer of appointment as a Constable also, cannot be sustained for the reason that respondents have themselves, as has been mentioned above in the case of Narinderpal Singh, Amarjit Singh and Inderjit Singh, not followed this stand that the benefit cannot be granted for the second time. In all these three cases, initially they were offered appointment to the post of a Constable which was accepted by them and they having joined thereafter was given appointment as ASI. That being an admitted position, discrimination vis. a vis. the petitioner is clearly made out. Petitioner, therefore, is right in asserting that Articles 14 and 16 of the Constitution have been violated by the respondents. The impugned order, on this ground also, cannot be sustained.*

*In view of the above, the present writ petitions as they are based on same stand of the respondents and carry the same basic pleadings, are allowed and the impugned orders are quashed. Directions are issued to the respondents to consider the claim of the petitioners for appointment to the post of ASI and on consideration thereof, issue appropriate orders in accordance with law.*

*The said exercise he completed within a period of two months from the date of receipt of certified copy of this order”*

9. From the perusal of above-quoted paragraphs of order dated 30.01.2013, it is quite evident that this Court had directed the respondents to



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consider petitioner's claim in accordance with law. The respondent was never asked to offer appointment letter of the post of ASI. The contention of petitioner is mis-conceived that respondents were bound to offer appointment letter of the post of ASI.

10. The respondent considered petitioner's claim and found that as per policy dated 29.11.1989, he was eligible to the post of Constable. This Court cannot ask the respondent to act contrary to the policy. The policy was very lucid. As per policy, the petitioner was entitled to the post of Constable which he was offered. He joined the said post on 08.01.1999. It is a settled proposition of law that compassionate appointment is neither a fundamental nor vested right. The object of said appointment is to tide over the family from penury and prevent from being driven to destitution. The petitioner as per policy was offered the post of Constable and he joined the said post. The object of the policy was achieved. The appointment on compassionate ground is a matter of policy and it is not a recognized mode of appointment.

Supreme Court in **Umesh Kumar Nagpal Versus State of Haryana;**  
**(1994) 4 SCC 138,** while adverting with intent and purport of compassionate policy has held :

*“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment*



*nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood. The Government or the public authority concerned has to examine the financial condition of the family of the deceased, and it is only if it is satisfied, that but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the*



*family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”*

10. In the wake of above discussion and findings, this Court is of the considered opinion that present petitions being bereft of merit deserve to be dismissed and accordingly dismissed.

**(JAGMOHAN BANSAL)**  
**JUDGE**

**06.05.2024**

*anju*

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*