

LPA-1507-2017 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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LPA-1507 of 2017 (O&M)
Date of Decision: 01.05.2024.

State of Haryana and others

...Appellants.

Versus

Sonu

....Respondent.

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Hitesh Pandit, Addl. A.G., Haryana
for the appellants.

None for the respondent.

Sanjeev Prakash Sharma, J. (Oral)

CMA-3208-LPA-2017

Prayer made in the application is for condonation of delay of
136 days in filing the appeal.

Keeping in view the averments made in the application the
delay of 136 days in filing the appeal is condoned.

CM application stands disposed of.

Main case

Learned counsel appearing for the State submits that the
learned Single Judge has fallen in error in directing the State to consider the
case of the petitioner (respondent herein) for appointment as per his
qualification on any post in the Police Department or elsewhere by treating

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his case sympathetically as an orphan.

2. Learned counsel submits that the Haryana Compassionate Assistance to the Dependants of Deceased Government Employee Rules, 2003, as notified on 28.02.2003, incorporated special provision for an orphan, which was also incorporated in Rule 18(2) of the subsequent Rules promulgated in the year 2005. Learned Single Judge has passed the order relying upon the said Rules of 2003 and 2005. However, the Rules of 2003 and 2005, stood repealed, vide Notification dated 01.08.2006, whereby the State of Haryana promulgated Haryana Compassionate Assistance to the Dependants of Deceased Government Employee Rules, 2006. The petitioner applied for appointment in the year 2007, after having attained majority however, in terms of the Rules of 2006, the provision relating to granting compassionate appointment stood deleted and only financial assistance per month was allowed as per the recent Rules of 2006 to the family of the deceased Government servant.

3. Learned counsel submits that in view thereto, the order passed by the learned Single Judge cannot be sustained.

4. We have considered the submissions.

5. It is the case, where the respondent lost his serving father at young age on 17.08.1993. His father was working as a 'Constable' with the State of Haryana and as his mother had already expired, he was orphaned. The State provided family pension to the petitioner and the petitioner acquired educational qualification and applied, at the age of 19 years, for ex-gratia appointment in the Office of D.G.P., Haryana. He preferred a writ

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petition when he was denied appointment but was directed to file a fresh petition after submitting a legal notice to the State for decision. The State vide its order dated 01.01.2009, rejected the claim of the petitioner notifying that the Rules of 2006 as notified on 01.08.2006, do not have any provision of compassionate appointment. The Rules which were formulated earlier, namely Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2003, provided that the rules shall be relied for an orphan and the claim of such an orphan would remain alive, till he attained the age of majority for joining Government service. Similar provision was also added in 2005 Rules, which were notified on 18.11.2005. But his Court finds that the Rules of 2003 and 2005 stood repealed after the promulgation of the 2006 Rules, which did away with compassionate appointment and only financial assistance per month was decided to be released to the family.

6. While the Single Judge has applied the provisions of 2003 and 2005 Rules, for directing the State to consider the case of the petitioner for compassionate appointment, we find that the application for seeking compassionate appointment itself was moved by the petitioner (respondent herein) after the promulgation of the Rules, 2006. Therefore, the case of the petitioner (respondent herein) could not have been examined under the extent of 2003 or 2005 Rules, which stood repealed on the date, when an application was moved by him.

7. In the circumstance, the directions to consider the case for appointment of the petitioner (respondent herein) is found to be not in

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accordance with the Rules, which were in force at the time of the submission of the application.

8. We also find that the petitioner (respondent herein) was granted sufficient financial assistance immediately after the death of his father by way of family pension and additionally, he has been granted financial assistance also per month, after promulgation of Rules, 2006. Thus, the purpose to help the family which has become indigent on account of the sudden demise of Government servant, who is in service, stands sub-served.

9. Direction for granting compassionate appointment, therefore, cannot be said to be in accordance with law. The order passed by the learned Single Judge is set aside and our decision however, will not, in any manner, deprive the consent of the Sonu to receive monthly family assistance in terms of the Rules of 2006.

10. In view of the above, the appeal is allowed in aforesaid terms.

11. Pending application(s), if any, also stands disposed of accordingly.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

01.05.2024.
komal

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No