



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-31872-2024 (O&M)

Date of decision: 20.01.2025

Kailash and another

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Dr. (Mr.) Rishi Pal Singh, Advocate for the petitioners.

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 14.08.2024 passed by the Civil Surgeon-respondent No.3, whereby the claim of the petitioners for seeking compassionate appointment has been rejected.

2. Learned counsel appearing on behalf of the petitioners contends that late Ram Nath-husband of petitioner No.1 was appointed as Class-IV employee (Ward Servant) by the Chief Medical Officer, Kurukshetra vide order dated 22.05.1969. He contends that Ram Nath was served with a notice of termination of services by the office of the Chief Medical Officer, Kurukshetra vide memo No.8017-10 dated 20.11.1981 in violation of fundamental principles of natural justice. The said notice was challenged by way of Civil Suit No.1580 of 1984, which was decided vide judgment and decreed dated 21.11.1984 in favour of the husband of petitioner No.1. The operative part of the said judgment reads thus:-

“As a result of my discussion above, the suit of the plaintiff succeed and the same is hereby decreed with costs declaring the impugned order dated 20.11.1981 passed by Chief Medical Officer, Kurukshetra to be illegal, against the rules of natural



justice, arbitrary, malafide and against the service rule and provision of Article 311 (2) of the Constitution of India. The plaintiff shall be deemed in service on full pay and allowance from the date of passing the impugned order. Decree sheet be prepared accordingly. File be consigned to the record room.”

3. Civil Appeal No.13 of 1986 was thereafter preferred by the respondent-Department before the District Judge, Kurukshetra which was allowed vide judgment dated 10.04.1987 and the judgment and decree passed by the Sub-Judge, IIIrd Class, Kurukshetra was set aside. Regular Second Appeal No.2621 of 1987 preferred by the legal heirs of Ram Nath was allowed in favour of the petitioner(s) vide order dated 02.08.2010. There was, however, no compliance to the order passed by the High Court and the pensionary benefits of the husband of petitioner No.1 were not released. The said benefits were eventually released in favour of the petitioners by respondent No.3 only in the year 2023 and that too without any interest on delayed payment of the pensionary benefits. He further contends that Ram Nath expired on 01.11.1985 and that no compensation or compassionate appointment was extended by the respondents in favour of petitioner No.1 or any other member of the family. Petitioner No.2 is the grandson of petitioner No.1 and late Ram Nath. He holds the qualification of Matriculation, 10+2 and a First Aid Certificate from St. John Ambulance (India), Indian Red Cross Society. He falls in the Backward Class and is a permanent resident of Haryana. It is submitted that since the petitioners could not avail any of the benefits of financial assistance or compassionate



appointment on account of the ongoing dispute, a formal request of issuance of compassionate appointment to petitioner No.2 was made on 22.09.2023. He contends that as no decision was taken on the said representation, hence, CWP-26239-2023 titled as Kailash and another Vs. State of Haryana and others was filed by the petitioners before this Court which was disposed of vide order dated 22.11.2023 directing the respondents to take a decision on the representation. Pursuant thereto, the Civil Surgeon, Kaithal has passed the order on 14.08.2024. The operative part of the same reads thus:-

“That the Husband of the petitioner no. 1 namely Ram Nath was posted as C-IV in Health Department in District Kaithal. He was terminated from job on 20.11.1981. However, Ram Nath was reinstated on 21.11.1984 by the Court of Sub Judge, Kurukshetra. Ram Nath had expired on 01.11.1985 while in job in Health Department in District Kaithal.

That no application by petitioner no. 1 was moved before authorities to give the job as compassionate appointment. Cooked up and Made up story has been forwarded by petitioners in Annexure P-3. It is pertinent to mention here that execution petition was also filed by petitioners before Court of Civil Judge, Kurukshetra, but no such pleas (Compassionate Appointment) were taken by Decree Holders in execution petition. Later on this execution petition was disposed of as fully satisfied by Hon'ble Court of Civil Judge, Kurukshetra.



That there is instructions from Chief Secretary, Govt of Haryana and vide letter no. 16/21/88-6GS-II, dated 03.11.1988, cause of action for seeking compassionate appointment is three years. This letter is clarification regarding letter no. 16/21/84-3GS-II dated 09.09.1985 of Govt. of Haryana. Present case is covered under this instruction. Moreover, there is/was no such provision where compassionate appointment is/was to be given to the grand son of deceased employee, as grand, son does not fall under the category of "Dependent" of the deceased employee as per Haryana Govt. Ex-gratia Policy.

That Annexure P-3 bears no merits and same is rejected. Therefore, I Dr. Renu Chawla, Civil Surgeon, Kaithal reject the representation dated 22.09.2023 (Annexure P-3) moved by petitioners. The decision dated 22.11.2023, CM 19731- CWP 2023 IN/AND CWP 26239-2023 (O&M) has been complied with in letter and spirit.”

4. It is evident from a perusal of the aforesaid operative part of the order that the plea for compassionate appointment of petitioner No.2 was rejected by the Civil Surgeon by making reference to the instructions issued by the Chief Secretary, Govt. of Haryana, issued vide letter No.16/21/88-6GS-II dated 03.11.1988, as per which cause of action for seeking compassionate appointment exists only for three years. The said letter is clarification of earlier letter dated 09.09.1985. It has also been set out that



the petitioners never submitted any request for compassionate appointment till the year 2023 notwithstanding that a period of nearly 38 years had elapsed since the death of Ram Nath. It was also specifically recorded by the Civil Surgeon that grandson does not fall in the category of “Dependent” of the deceased employee as per the Haryana Government Ex.-Gratia Policy. Hence, in view of both the said conditions, the representation was dismissed. Aggrieved thereof, the instant petition has been filed.

5. Vide order dated 27.11.24, learned counsel appearing on behalf of the petitioners had sought time to produce on record relevant instructions/policy to substantiate his argument that in place of compassionate appointment, financial assistance can be given.

6. Even on resumed hearing, learned counsel appearing on behalf of the petitioners has neither been able to refer to any instructions nor any policy as would entitle the petitioner to any further financial assistance or to indicate that the reasons given by the respondents while declining the representation are misplaced or not based upon the correct interpretation of the instructions issued by the Government of Haryana.

7. Under the given circumstances, I do not find that there is any illegality, perversity or impropriety in the speaking order passed by the Civil Surgeon, Kaithal. The instant writ petition is accordingly ***dismissed in limine.***

(VINOD S. BHARDWAJ)
JUDGE

20.01.2025
Mangal Singh

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