
(2017) 02 P&H CK 0028
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 6479 of 2013 (O&M)

Ajmer Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 07-02-2017

Acts Referred:

Constitution of India, 1950 — Article 14, Article 16

Citation : (2017) 2 SCT 251

Hon'ble Judges : Ajay Tewari, J.

Bench : Single Bench

Advocate : Ravi Gakhar for Jagdish Manchanda, Advocates, for the Petitioner;
Ms. Shruti Jain Goyal, A.A.G., Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Ajay Tewari, J. (Oral) - By this petition the petitioner has challenged the letter dated 32225/W-5 dated 06.09.2012 (Annexure P-2) issued by the respondent No.2 whereby his request for compassionate appointment has been rejected.

2. Brief facts of the case are that father of the petitioner was appointed with the respondent department as Constable and expired due to road accident on 07.12.1998 while he was in service. The mother of the petitioner requested the respondent No.3 to reserve a post of Constable for the petitioner as he was 10 years old at that time. The petitioner attained majority in the year 2006 and claimed compassionate appointment but his claim was rejected and that is why he is before this Court.

3. Learned counsel for the petitioner has fairly accepted that the petitioner now can not claim compassionate appointment in view of the decision of the Supreme Court in the matter of Union of India and others v. Sima Banerjee, passed in Civil Appeal No.251 of 2017, decided on 10.01.2017. However, he claims that he would have to be given the benefit of ex-gratia compensation in terms of the 2006 policy.

4. Learned Assistant Advocate General however points out that as a matter of fact the petitioner's claim would have to be rejected in view of the instructions of 1999 as per which compassionate appointment could be given only to those eligible persons who applied within three years and since as per the case of the petitioner he was 10 years old at the time of death of his father he could not apply within that prescribed period. Moreover, as per the learned Assistant Advocate General the petitioner attained majority in the year 2006 and thereafter remained quiet till 2012 and on this score alone he is not entitled to any relief.

5. Learned counsel for the petitioner on the other hand points out that when his father had died his mother had applied in the year 1998 and requested for keeping one post reserved for the petitioner. Further there was a practise prevalent in the State of Haryana to this effect and there are innumerable cases where in fact jobs were reserved and given to the dependants when they became eligible and that is why the Superintendent of Police had written a letter (Annexure P-1) to the Director General of Police recommending that one post be kept vacant for the petitioner and handed over a copy of that letter to the mother of the petitioner. Consequently, at that time the mother of the petitioner was sanguine that the petitioner would be given a job as and when he become eligible. At no stage did the respondents ever disclose to the petitioner or his mother about the fact that he was ineligible for seeking the job since he could not apply within three years due to his minority. Even when the petitioner attained majority he constantly made rounds of the offices and he was always assured that his case would be considered and it was only in 2012 that he developed the courage to write letter seeking his appointment and it was only then that by letter (Annexure P-2) he was informed that in fact he was not entitled to any benefit. As per the learned counsel, in these circumstances the respondents can not take the plea of delay to deny even the benefits of ex-gratia compensation to the petitioner.

6. In my opinion, the argument of learned counsel for the petitioner has more weight. Had the respondents taken care to inform the mother of the petitioner immediately in the year 1999 that the post could not be reserved for her son she could immediately take the job herself because she in any case was eligible at that time, if not for a Class-III post then for a Class-IV post. The omission of the respondents to inform the mother of the petitioner about the policy of 1999 or about the fact that for her son one post could not be kept reserved now disentitles them to take this technicalistic plea about the non-entitlement of the petitioner.

7. In the circumstances, though the prayer for compassionate appointment is rejected yet the respondents are directed to now consider the case of the petitioner for ex-gratia compensation as per the 2006 policy. Let the needful be done and the ex-gratia compensation be paid to the petitioner and his mother in equal share within a period of three months from the date of receipt of a certified

copy of this order, failing which, the petitioner and his mother would be entitled to claim the same with interest @ 12% per annum from today.

Petition stands disposed of.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.