
(2013) 05 P&H CK 0007
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 663 of 2013 (O and M)

Deepak

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 20-05-2013

Acts Referred:

Citation : (2013) 4 SCT 250

Hon'ble Judges : Surya Kant, J;R.P. Nagrath, J

Bench : Division Bench

Advocate : Hemen Aggarwal, for the Appellant;

Judgement

R.P. Nagrath, J.—The instant appeal is directed against the order of learned Single Judge, declining claim of the appellant for seeking appointment to a Class-III Post on compassionate grounds on the strength of the Government Policies (Annexures P-7 to P-9). The appellant was instead given compassionate appointment to the post of Peon (Class-IV). The father of appellant was Sub-Inspector with the Haryana Transport Department who died on 26.3.1997 in harness. At that time the appellant was minor and his mother made an application to the respondent-Department nominating her son (appellant) for appointment on compassionate basis. The claim was based on the ex-gratia scheme dated 8.5.1995 (Annexure P-7) of the Government. The appellant was successful in earlier round of litigation for being considered under the State Government Policies for compassionate appointment and was appointed as Peon on Class-IV post on 12.6.2009. It is not disputed that mother of the appellant had applied for Class-IV post for appellant and even subsequently when the petitioner became major he applied for Class-IV post on compassionate grounds. It is contended that the appellant could not be denied his entitlement to a Class-III post under the Policy (Annexure P-7) which reads in the following terms:-

i) Ex-gratia employment shall be confined to Class-III and Class-IV posts only, irrespective of the status of the deceased employee. Further, the compassionate employment being offered shall be at least one step lower than that of the

deceased employee except in cases where the deceased employee was working in the lowest level in the government.

Vide memo dated 31.8.1995 (Annexure P-8) it was clarified that "one step lower employment" is interpreted as One Pay Scale below and the learned counsel further contends that looking into the post which appellant's father was holding as Sub-Inspector in the Transport Department, the entitlement of appellant for Class-III post cannot be denied.

2. The above claim was set-up on the basis that by the time the appellant was given compassionate appointment in the year 2009, he had passed his 10 + 2 examination on 10.6.2008, which is the minimum qualification prescribed for a Class-III post.

3. We have heard learned counsel for the appellant at some length and hold that finding of learned Single Judge is based on correct appreciation of law on the subject and policies of the State Government.

4. Application for the post of Peon i.e. Class-IV post, was made by the appellant after he attained majority in the year 2001 and his claim was rejected. The appellant reiterated his claim for the post of Peon even in CWP No. 1516 of 2002. The learned Single Judge, has observed and rightly so that the compassionate appointment is not a right to a particular post but to relieve the family from distress. The policy (Annexure P-7) does not entitle the family of deceased employee to a particular post but says that the ex gratia appointment shall be confined to Class-III and IV posts only. Further the compassionate appointment to be offered should be at least one step lower than the deceased employee was getting except in cases when the deceased employee was working at that time at the lowest level in the Government. This is the upper limit fixed for providing compassionate appointment and not conferring a right to a specific post. In view of the above, we do not find any ground to interfere in the view taken by the learned Single Judge, which is based on the established principles of law on the subject.

Dismissed in limine.