
(2012) 08 SHI CK 0038
In the High Court Of Himachal Pradesh
Case No : CWP No. 1501 of 2009

Kaushlya Devi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 09-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 08 SHI CK 0038

Hon'ble Judges : V.K. Ahuja, J

Bench : Single Bench

Advocate : Surender Sharma, for the Appellant; Shilpa Sood, Central Govt.Counsel, for the Respondent

Final Decision : Allowed

Judgement

Justice V.K. Ahuja

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India, for directing the respondents against the impugned order dated 30.11.2006 (Annexure-PB), vide which the respondents had rejected the application filed by the petitioner for appointment on compassionate grounds. Briefly stated, the facts of the case are that the husband of the petitioner namely, late Sh. Gian Chand, was working as Mate, who died in harness on 7.12.2004, while discharging his duties. The petitioner filed an application on 24.6.2012 for employment on compassionate grounds. Another application was filed by the petitioner on 11.11.2005 for appointment on compassionate grounds. She alleged that she has no source of income and that she and her children were solely dependent upon the deceased. She sought the compassionate appointment for the post of Safaiwala. The said applications filed by the petitioner was rejected vide impugned order dated 30.11.2006, Annexure-PB and dated 25.8.2012, Annexure-PD.

2. During the course of arguments, my attention has been drawn to the order

passed by this Court in a similar matter where the deceased was working as Electrician, who had died in harness on 19.1.2003. The final order passed in that case reads as under:-

3. During the course of arguments, learned counsel for the petitioner has submitted that similarly placed persons as alleged in para 15 of the petition, were considered sympathetically by the respondents and the compassionate appointment was provided to the petitioners in those cases, the names of the cases has also been mentioned in para 15 of the petition. It has also been pointed out by learned counsel for the petitioner that as per the decision of the Hon"ble Supreme Court in Govind Prakash Verma Vs. LIC of India (2005) 10 SCC 289, the scheme of compassionate appointment is over and above whatever is admissible to legal representatives of deceased employee as benefits of service which they get on death of the employee. Therefore, the argument, raised is that the compassionate appointment cannot be refused on the ground that any member of family had received the amount admissible under the rules.

In view of the above discussion, the present petition is allowed to the extent that an inquiry shall be held in regard to the financial status of the petitioner as to how she is making her both ends meet by ignoring the pension and other benefits granted to her on the death of her husband. The case of similarly placed persons has been considered and if the petitioner is similarly placed and is entitled to be appointed accordingly, her case shall be considered and she shall be appointed, if found eligible, as per the rules. In regard to her condition, an inquiry shall be held by the respondents and an order shall be passed within a period of 4 months from the date of receipt of a copy of this judgment. The petition stands allowed and disposed of accordingly, so also the pending application(s), if any.

3. Accordingly the similar order is passed in this petition, as passed in CWP No. 1483 of 2009, titled Sudesh Kumari versus Union of India and others, decided on 24.7.2012, referred to above. The parties shall be bound by the order and shall comply with the order passed in the similar case. The inquiry shall be held by the respondents within a period of four months from the date of receipt of a copy of the judgment, which shall be produced by the petitioner before the respondents. The petition stands allowed and disposed of accordingly, so also the pending application(s), if any.