
(2020) 07 P&H CK 0045

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 4205 Of 2010 (O&M)

Narinder Kaur

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 10-07-2020

Acts Referred:

Citation : (2020) 07 P&H CK 0045

Hon'ble Judges : Rajan Gupta, J;Karamjit Singh, J

Bench : Division Bench

Advocate : Arvind Seth, Sahil Sharma

Final Decision : Dismissed

Judgement

Karamjit Singh, J

The petitioner has filed this petition for issuance of a writ in the nature of certiorari for quashing the impugned letter dated 26.05.2009 (Annexure P-9)

issued by respondent No.1 and impugned letter dated 26.11.2009 (Annexure P-8) issued by respondent No.4, regarding cancellation of allotment of

Plot No.402-A, Maharaja Yadvindra Singh Avenue, Jalandhar, in her name.

The case of the petitioner is that she joined Jalandhar Improvement Trust (Respondent No.3) as a clerk in 1992. Jalandhar Improvement Trust offered

free hold residential plots in Maharaja Yadvindra Singh Avenue, Jalandhar, and the applications were invited from 15.12.2006 to 08.01.2007. Some of

the plots in the said scheme were reserved for the State Government employees and employees of Municipal Corporation and Improvement Trust.

The petitioner applied for allotment of one plot measuring 150 Square Yards in the aforesaid scheme under the reserved category meant for

employees of the Improvement Trust. She deposited the requisite amount of

Rs.75,000/- with respondent No.3, along with her application form (Annexure P-1). She was successful in draw of lots, which was held on 23.08.2007 and she was allotted Plot No.402-A, as per Annexure P-2. Certificate (Annexure P-3) was also issued in this regard by respondent No.4. However, no letter was issued to the petitioner regarding allotment of the aforesaid plot. The petitioner submitted representation dated 11.04.2008 (Annexure P-4) to respondent No.3. Respondent No.3 gave assurance to the petitioner that allotment letter would be issued in the due course, but in vain. Petitioner gave another representation dated 02.06.2009 (Annexure P-5) to respondent No.3. Another request dated 15.10.2009 (Annexure P-6) was submitted to respondent No.3. Then, petitioner filed CWP No.17681 of 2009, which was disposed of by this Court, vide order dated 18.11.2009 (Annexure P-7), with a direction to respondent No.4 to decide her representation within a period of three months. The petitioner received letter dated 26.11.2009 (Annexure P-8), whereby, she was informed that the plot allotted to her has been cancelled. The above-said letter was issued on the basis of letter dated 26.05.2009 (Annexure P-9) issued by the Government to respondent No.4. Another letter dated 26.02.2010 (Annexure P-11) was received by the petitioner, whereby, she was asked to get refund of the amount already deposited by her. The petitioner has challenged letters, Annexures P-8 and P-9, being illegal.

On notice of motion, the petition has contested by the respondents. In their written statement, respondent Nos.3 and 4 pleaded that the petitioner was appointed as a clerk on compassionate grounds, on account of death of her father, in 1992. During his life time, her father was allotted a plot under the Improvement Trust quota. However, it was admitted that the petitioner applied for allotment of residential plot and she deposited Rs.75,000/- with respondent No.3 and in the draw of lots held on 23.08.2007, she was successful and Plot No.402-A measuring 150 Square Yards was allotted to her. But she was not issued any allotment letter. The said allotment was against the rules, as her father had already availed similar benefit, while in service. It was further pleaded that accordingly, allotment of aforesaid plot was cancelled in the name of the petitioner, vide letters dated 26.05.2009 and 26.11.2009, which are legal and valid.

The Additional Secretary to Government of Punjab, Department of Local

Government, filed counter-affidavit on behalf of respondent No.1 and 2 to the effect that the cancellation of allotment of plot in the name of the petitioner was in consonance with the policy decision of the Government dated 28.06.2004 (Annexure R1).

We have heard learned counsel for the parties and also gone through the record of the case, carefully.

There is no dispute regarding the facts that father of the petitioner died while in service and the petitioner was appointed as a clerk in the office of respondent No.3 on compassionate grounds, in 1992. The petitioner applied for allotment of residential plot measuring 150 Square Yards in reserved category being the employee of the Improvement Trust and succeeded in draw of lots, which was held on 23.08.2007 and Plot No.402-A was allotted to her in the aforesaid reserved category.

Learned counsel for the petitioner contended that the aforesaid allotment of plot was valid and could not be cancelled. It was further contended that

no opportunity of hearing was given to the petitioner before cancellation of allotment of plot, vide Annexures P-8 and P-9. The said contentions to our

mind are not tenable. As per Annexure R-1 dated 28.06.2004, the employee, who has died after allotment of plot out of employees quota and his

widow has been appointed in service on compassionate ground, then she is not entitled for allotment of plot out of said reserved quota. The same

analogy would be applicable to the daughter, who has got employment on compassionate grounds.

In the present case, it was specifically pleaded by the respondents that during his life time, the father of the petitioner was allotted one such plot out of

employees quota. This fact has not been specifically denied by the petitioner, in any manner. It has also come on the record that the petitioner was

given employment on the compassionate grounds by waiving of the mandatory lower age limit of 18 years. Such like compassionate appointment

provides an avenue for the family of the deceased employee to live with sense of dignity by providing one of its members, employment with the State.

A person is given compassionate appointment as a member of the family of the deceased Government employee, who has died in harness, in

relaxation of normal rules. The petitioner in that sense, step into shoes of her father, who died while in service. It is also there on the record that the

petitioner after getting appointment on compassionate grounds availed housing loan of Rs.4 lacs for purchase of residential house, from her

department, vide resolution No.365 dated 24.02.1999 and then, she purchased one house in the area of Jalandhar, vide sale deed dated 16.11.1999

from one Amarpreet Singh. So, it is clear that earlier petitioner purchased one house by getting loan from respondent No.3 and now, she intends to get

another residential plot at concessional rates, being employee of the Improvement Trust, Jalandhar. We are of the view that if such benefit is given to

the petitioner, it tantamounts to unjust enrichment and would be against the public interest.

In the light of the aforesaid discussion, we are of the considered view that there was no illegality or infirmity in letters, Annexures P-8 and P-9,

whereby, the allotment of Plot No.402-A, in the name of the petitioner, has been cancelled.

Consequently, this writ petition fails and is hereby dismissed.