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**(2013) 05 P&H CK 0205**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 18645 of 1995**

Smt. Harbhajan Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

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**Date of Decision :** 04-05-2013

**Acts Referred:**

Arms Act, 1959 — Section 25  
Constitution of India, 1950 — Article 226  
Explosives Act, 1884 — Section 4, 5  
Penal Code, 1860 (IPC) — Section 148, 149, 302, 307  
Terrorist and Disruptive Activities (Prevention) Act, 1987 — Section 3, 4, 5

**Citation :** (2013) 171 PLR 346

**Hon'ble Judges :** Gurmeet Singh Sandhawalia, J

**Bench :** Single Bench

**Advocate :** Aman Bahri, A.A.G., Punjab, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Gurmeet Singh Sandhawalia, J.—The present petition has been filed under Article 226 of the Constitution of India for quashing the order dated 4.11.1993 (Annexure P-1) wherein the Government had directed that the candidates already appointed on compassionate ground should not be reconsidered for higher post due to their improved qualification. Challenge is also laid to the instructions dated 29.11.1989 (Annexure P-2) wherein instructions have been issued for appointment of member of the family of a person killed in terrorist action on class III or IV post on priority basis. Further prayer of the petitioner is for issuance of writ in the nature of mandamus directing the respondents to issue appointment letter on compassionate grounds to the petitioner as Assistant Sub Inspector on account of death of her husband at the hands of terrorists as per policy of the Government since the petitioner had acquired requisite qualification. The pleaded case of the petitioner is that her husband was working as Sub Inspector and was posted as Additional S.H.O., Police Station Sadar, Batala in the month of January, 1990. While chasing the terrorists, he was killed on 10.1.1990

and the FIR No. 12 was also lodged under Sections 302/307/148/149 IPC, 25/54/59 of Arms Act, 4/5 Indian Explosive Act and 3/4/5 of TADA Act at Police Station Sadar, Batala. The petitioner applied to the respondents for appointment as A.S.I. on compassionate ground on the basis of policy of the Government. The case of the petitioner was recommended by the Senior Superintendent of Police, Batala to the D.I.G. Border Range, who further recommended the same to the Director General of Police on 23.2.1990. However, vide letter dated 22.3.1990, the Director General of Police asked the petitioner to join as Constable but she refused. Thereafter, due to compelling circumstances she accepted the appointment as Constable on 30.5.1990 and joined. The petitioner had not been appointed as ASI as she had not passed 10+2 examination but she had only qualified Higher Secondary Examination. For the post of ASI, the qualification required was 10+2 and on this ground, the case of the petitioner for appointment as ASI was rejected. Similarly situated person, namely, Ranjit Singh son of Amar Singh was appointed on the post of Assistant Sub Inspector with the condition that he would have to pass 10+2 examination within four years. The petitioner approached the Director General of Police on 5.11.1993 on the ground that she had improved her qualification and was eligible for appointment as A.S.I. on compassionate grounds. The recommendation had been made by the Director General of Police to the Principal Secretary for appointment of the petitioner as ASI but the same had been turned down. Resultantly the present writ petition has been filed.

2. In the written statement of respondent No. 4, it was pleaded that as per instruction Annexure P-1, if a candidate had already obtained the appointment on compassionate ground, he cannot again apply for another post on compassionate grounds and, therefore, the case of the petitioner could not be reconsidered for appointment as ASI as she had already been appointed as Constable on compassionate grounds. The petitioner never fulfilled basic qualifications for the appointment as ASI at that point of time nor she applied for relaxation in the qualifications.

3. From the pleadings, it would be clear that the petitioner was appointed as Constable on account of death of her husband in harness and at the time of appointment she was given the post as per her qualification and subsequent improvement in qualification would not entitle her for appointment on higher post on compassionate ground. In Umesh Kumar Nagpal Vs. State of Haryana and Others, , the Hon''ble Apex Court held that the whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. Relevant paras of the judgment read as under:-

6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the

financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

7. It is needless to emphasise that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an adhoc basis.

4. The said view has been reiterated by the Hon''ble Apex Court in I.G. (Karmik) and Others Vs. Prahalad Mani Tripathi, wherein it has been observed that public employment is wealth and in term of the constitutional scheme cannot be given on basis of descent and the exception made must be strictly complied with. The purpose of appointment on compassionate grounds is to provide immediate succour to the family and not to provide for endless compassion, as seems the case pleaded in the present facts and circumstances.

5. Once the State had appointed the petitioner as Constable on the basis of her qualifications, she is not entitled to claim the appointment on higher post on the basis of her improved qualifications during the service. Accordingly, the present writ petition is dismissed.