
(2014) 05 SHI CK 0034
In the High Court Of Himachal Pradesh
Case No : CWP No. 2269/2014

Vipan Negi

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 28-05-2014

Acts Referred:

Citation : (2014) 05 SHI CK 0034

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Tek Chand Sharma, Advocate for the Appellant; Anup Rattan, Additional Advocate General, Advocate for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—Petitioner's father, who was employed in the respondent Department, died in harness on 1.10.2005. Petitioner submitted an application for appointment on compassionate grounds. The same was rejected by the respondents on 14.1.2013.

2. According to the respondents, petitioner did not meet financial/income criteria fixed by the Government. Petitioner has placed on record income certificate dated 4.12.2009, whereby income of the petitioner's family has been assessed as Rs. 63,372/- per annum. According to the reply filed by the respondents, petitioner's mother is getting pension of Rs. 3500+ 90% Dearness Allowance, which comes to Rs. 6650/- per month. The amount of the pension has also been taken into consideration by the respondents while computing income of the petitioner's family. Family pension could not be included while computing annual income.

3. Their Lordships of the Hon'ble Supreme Court in Govind Prakash Verma Vs. Life Insurance Corporation of India and others, (2005) 10 SCC 289, while dealing with almost similar situation has held as under:

6.....The scheme of compassionate appointment is over and above whatever is

admissible to the legal representatives of the deceased employee as benefits of service which one gets on the death of the employee. Therefore, compassionate appointment cannot be refused on the ground that any member of the family received the amounts admissible under the Rules....

4. This Court in Kumari Savita Sharma Vs. State of H.P. and Others, has taken a view that while considering the applications for giving appointment on compassionate grounds, pension received by the family is not to be computed for the purpose of determining the income of the family.

5. Similar view has been taken by this Court in CWP No. 9965 of 2011 titled as Vikas Kumar Vs. State of H.P., decided on 28.8.2012, CWP No. 4852 of 2013 titled as Ashwani Kumar Vs. State of H.P. and others decided on 29.7.2013 and CWP No. 9637 of 2013, titled as Parvinder Kumar vs. State of H.P. and others, decided on 2.1.2014.

6. Accordingly, the writ petition is allowed. Annexure P-17 dated 14.1.2013 is set aside. Respondents are directed to consider the case of the petitioner for compassionate appointment in view of the law laid down in the judgments cited herein above, within a period of eight weeks from today. Pending applications, if any, also stand disposed of. No costs.