

Present: Vs. State of Punjab and Others

Present: Vs. State of Punjab and Others

SooperKanoon Citation : sooperkanoon.com/1090570

Court : Punjab and Haryana

Decided On : Sep-18-2013

Appellant : Present:

Respondent : State of Punjab and Others

Judgement :

CIVIL WRIT PETITION NO.15887 of 2012 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CIVIL WRIT PETITION NO.15887 of 2012

JUDGMENT

RESERVED ON.

SEPTEMBER18 2013 DATE OF DECISION: SEPTEMBER24h , 2013 Rajinder PalPetitioner Versus State of Punjab and othersRespondents CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA Present: Present Mr.GS Bal, Advocate for the petitioner.

Mr.Pankaj Mulwani, Deputy Advocate General, Punjab.

TEJINDER SINGH DHINDSA, J.

The petitioner has filed the present writ petition aggrieved of the action of the respondent-authorities in not considering his claim seeking appointment on a compassionate basis.

[2].Brief facts are that the father of the petitioner late Shri Sikander Lal was engaged as Fitter Helper on daily wage basis under the Sub Divisional Officer, Sub Division, Chamkaur Sahib, District Ropar on 1.4.1991.

The State Government issued a Policy dated 18.3.2011 whereby all such daily wagers who had completed ten years service as on 31.12.2006 were vested with a right to be regularized in service.

The Superintending Engineer, Water Supply and Sanitation, Sangrur Circle issued office order No.73 dated 24.5.2011 enclosing a list of ten daily wage workers who were stated to fulfil the requisite qualifications under the policy dated 18.3.2011 and regularizing them in the scale of `4900-10680+1300 grade pay.

In the list enclosed along with this order, the name of the father of the petitioner figured at Serial No.1.

Unfortunately, father of the petitioner died in harness on 24.3.2011 and as such, was not even alive to reap the benefits in the light of order dated 24.5.2011 at Annexure P1.

[3].The petitioner being one of the legal heirs of deceased Sikander Lal as per Dependent Certificate dated 13.7.2011 issued by the Deputy Commissioner, Rupnagar, Annexure P3, submitted an application dated 9.9.2011 seeking appointment on compassionate grounds.

Such application stands appended as Annexure P8 along with the writ petition.

Such claim was raised by the petitioner in the light of Punjab Government Policy dated 21.11.2002 and as amended on 5.2.2003 wherein it was envisaged that if a Government servant dies in harness, one of the dependents of the deceased Government servant is to be considered for compassionate appointment.

[4].The application seeking compassionate appointment submitted by the petitioner having not borne any fruit, has necessitated the filing of the instant writ

petition.

[5].Claim of the petitioner has been resisted by the State Government in terms of filing a joint reply on behalf of Malik Sushama Rani 2013.09.24 16:09 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.15887 of 2012 3 respondents 1 to 4 wherein a stand has been taken that compassionate appointment is not admissible to the legal heirs of a daily wager/muster roll employee.

[6].As such, the short question that arises for consideration is, as to whether in the peculiar facts of the present case, the petitioner can be denied consideration for seeking appointment on compassionate basis?.

[7].A somewhat similar question came to be considered by this Court in Civil Writ Petition No.1731 of 2011 titled as Dalbir Dalbir Kaur, widow of late SPO Sarabjeet Singh v.

State of Punjab and others decided on 10.1.2012 at Annexure P9.

A Co-ordinate Bench of this Court held in the following terms.The husband of the petitioner firstly served for about 7 years in the Punjab Home Guards and thereafter for about 13 years as SPO in the Punjab Police.

That his work and conduct was fully satisfactory stands proved from the fact that he was found suitable for absorption as a Constable by the respondents.

But for the unfortunate death caused by the accident which the deceased met while still on duty, he would have been a regular constable in the Punjab Police.

The unforeseen circumstance like this need not and can not be allowed to obstruct the benefits flowing from a welfare policy which is essentially meant to extend help to those, who due to the sudden death of their bread earner, are left with no source of survival.

The petitioner is no exception and falls in that Malik Sushama Rani 2013.09.24 16:09 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.15887 of 2012 4 mitigating category.

A Division Bench of this Court in Beant Kaur v State of Punjab & Ors., 2001[3].RSJ.262 observed that where the deceased employee had already been recommended for absorption on regular basis and he was awaiting regularization at the time of unfortunate death, the dependent family members would be entitled to the benefit of ex-gratia policy.

For the reasons aforesaid, I am of the considered view that the petitioner is also entitled to be considered for her appointment on compassionate grounds even if her husband could not be absorbed on regular basis as a Constable though was found suitable and short-listed for that purpose.

[8].The claim of the present petitioner is on a higher pedestal as compared to Dalbir Kaur i.e.the petitioner in Civil Writ Petition No.1731 of 2011.

In that case, no order as regards absorption of the husband of Dalbir Kaur had been passed and the State Government had stated that had the husband been alive, he would have been absorbed as he had been found suitable for absorption as a Constable.

In the present case, a specific order dated 24.5.2011 at Annexure P1 had already been issued by the Superintending Engineer concerned enclosing a list of the daily wagers who were regularized.

The name of the father of the petitioner was at Serial No.10 in the list enclosed along with such order.

[9].On 18.9.2013 during the couRs.of hearing, Shri Pankaj Mulwani, Deputy Advocate General, Punjab, upon instructions Malik Sushama Rani 2013.09.24 16:09 I attest to the accuracy and integrity of this document CIVIL WRIT PETITION NO.15887 of 2012 5 from Shri Ajay Kumar, SDE, Water Supply and Sanitation S/D Chamkaur Sahib made a statement that apart from the deceased, father of the petitioner i.e.Shri Sikander Lal, the services of all the nine other employees whose names figured in the list attached along with Annexure P1 were regularized with effect from the date of issuance of the order i.e.24.5.2011.

[10].But for his unfortunate demise, Sikander Lal was identically placed as the other nine daily wagers whose services have admittedly been regularized in the light of policy dated 18.3.2011.

Under such circumstances, this Court would have no hesitation in holding that the action of the respondent-authorities in denying consideration to the petitioner seeking appointment on a compassionate basis on the ground that he is the dependent of a daily wager is unfair and highly inequitable.

[11].Accordingly, the writ petition is allowed and the respondents are directed to consider the claim of the petitioner for appointment on compassionate basis in the light of the relevant policy/ instructions regulating compassionate appointment formulated by the State.

Let such exercise of consideration be completed and a final order be passed within a period of three months.

[12].Petition allowed in the aforesaid terms.(TEJINDER SINGH DHINDSA) th
SEPTEMBER24, 2013 JUDGE Sr.Note: Whether to be referred to Reporter?.

(Yes/No) Malik Sushama Rani 2013.09.24 16:09 I attest to the accuracy and integrity of this document

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com