

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.W.P.No.6519 of 2007

Date of Decision : 24.03.2008

Smt.Om Patti

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MR.JUSTICE MOHINDER PAL

Present : Shri Naveen Daryal, Advocate for the petitioner.
Ms.Mamta Singhal Talwar, AAG, Haryana for respondent No.1
Shri Jagdeep Singh, Advocate for respondent No.3.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

HEMANT GUPTA, J.

The petitioner has invoked the extra ordinary writ jurisdiction of this Court seeking to quash the order dated 13.8.2005, Annexure P-5, whereby the claim of the petitioner for appointment on compassionate ground was declined.

The husband of the petitioner namely Ram Kumar joined the respondent-Central Cooperative Society (hereinafter referred to as the Society) as Junior Accountant on 25.9.1971. He expired on 6.3.2000. The petitioner applied for appointment on compassionate ground vide application dated 22.6.2000. A resolution was passed by the respondents accepting the request of the petitioner for appointment on compassionate ground. But it is the case of the petitioner that she was not keeping a good health, so she sought appointment of her son on compassionate ground on

his attaining the age of eligibility. The said request of the petitioner was accepted by the respondents when resolution No.7 passed on 21.7.2000. Thereafter, the petitioner submitted representation dated 26.5.2005 for appointment of her son but the said request of the petitioner was rejected by the respondents while passing a resolution on 12.8.2005. Consequent to the said resolution, a communication was addressed to the petitioner on 13.8.2005, Annexure P-5, declining the request of the petitioner for appointment of her son on compassionate ground. Thereafter, vide communication dated 26.3.2007, Annexure P-6, an offer was given to the petitioner whether she would like to get the financial assistance of Rs.2.5 lacs under the Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2003 (hereinafter referred to as the '2003 Rules') or she would like to get the pay and other allowances last drawn by her husband under the ex-gratia scheme framed by the Haryana Government on 1.8.2006.

It is apparent from the facts narrated above, that it was the petitioner who sought appointment of her son on attaining the age of eligibility as he was not even 18 years of age at the time of death of his father. By the time son of the petitioner attained the age of 18 years, the 2003 Rules came into force. As per the 2003 Rules, the appointment could be given only against 5% of vacancies against the direct recruitment quota. Rule 8 (f) of the 2003 Rules provides where the dependent of the deceased Government employee does not become eligible for appointment on any ground or within three years of the death of the Government employee, he/she shall not be eligible for ex-gratia compassionate financial assistance

also. The request for the appointment on compassionate ground could be made within 3 years of the death of the employee.

In terms of the decision by this Court in cases *C.W.P.No.15304 of 2006, Jagdish Versus Uttar Haryana Bijli Vitran Nigam and another, decided on 26.02.2008* and *C.W.P.No.13472 of 2006, Union of India Versus Tilak Raj and another, decided on 5.12.2007*, the appointment on compassionate ground is a concession granted to the dependent members of the deceased family to meet out the immediate financial distress. Such appointment can be granted only in terms of the Rules. In terms of the 2003 Rules, the son of the petitioner is not entitled to appointment on compassionate ground as he has not attained the age of majority within 3 years of the death of his father. The husband of the petitioner died on 6.3.2000. However, the request for appointment of son of the petitioner was made on 26.5.2005 i.e., beyond the period of 3 years contemplated under 2003 Rules. But the petitioner, i.e., wife of the deceased employee has applied for compassionate appointment within a period of 3 years and in fact, the petitioner was offered appointment as well. Since the appointment was not accepted by the petitioner as she sought appointment for her son, therefore, the petitioner would be entitled to ex-gratia financial assistance. It is the action of the respondents in communicating the decision that the claim of the son of the petitioner shall be considered for appointment, which led to confusion of the petitioner for compassionate appointment.

Thus, we do not find any illegality or irregularity in the communication dated 26.3.2007, Annexure P-6, whereby an option has been sought from the petitioner to opt for financial assistance either in terms of

the 2003 Rules or the monthly financial assistance in terms of the 2006 Scheme, which may warrant interference of this Court in exercise of writ jurisdiction.

The writ petition is dismissed with no order as to costs. However, the petitioner is granted liberty to submit the option, as sought for in Annexure P-6, within one month from today.

(HEMANT GUPTA)
JUDGE

24-03-2008

**mohinder*

(MOHINDER PAL)
JUDGE