

(2013) 07 P&H CK 0556

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 16097 of 2013

Surti Devi and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: July 26, 2013

Acts Referred:

- Constitution of India, 1950 - Article 14, 16

Hon'ble Judges: Rajiv Narain Raina, J

Bench: Single Bench

Advocate: Pardeep Solath, for the Appellant;

Final Decision: Dismissed

Judgement

Rajiv Narain Raina, J.

The present petition has been filed in the wake of the Full Bench decision of this Court dated 20.04.2012 in CWP No. 4303 of 2009, Krishna Kumari vs. State of Haryana and others in which this Court has held that the policy applicable in cases of compassionate appointments and ex-gratia benefits is the one that is extant at the time of death of the Government servant. The petitioner No. 1 is the widow of a deceased Government servant who passed away on 17.11.2001. She prays that a direction deserves to be issued to the respondents to provide employment to her son-petitioner No. 2 on compassionate grounds. The petitioner No. 2 is stated to be 10+2 pass at the time of death of his father. The petitioners rely on correspondence exchanged between the parties from 2003 to 2010 by which the State had demanded documents etc from the petitioner from time to time but the matter kept lingering on. Even after 12 years, no reason has been communicated for acceptance or denial of the claim. The sister of the petitioner No. 2 had surrendered her right to press for compassionate appointment and other concessions available under the ex-gratia policy. The financial assistance schemes promulgated by the State of Haryana were inter alia floated in 2003, 2005 and the till the law was codified in the shape of Haryana Compassionate Assistance to the Dependents of Deceased

Government Employees Rules, 2006.

2. The Full Bench of this Court in Krishna Kumari's case observed:-

We, thus, come to the conclusion that in case an application is made by the dependent belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles accepted by the apex court in its various decisions. In such circumstances, it would be difficult to accept the exception to the general rule of employment as envisaged by Articles 14 and 16 of the Constitution of India. We answer the reference accordingly.

3. It is well settled that compassionate appointment is an exception to general rule of equal opportunity for public employment enshrined under Articles 14 and 16 of the Constitution. Compassionate appointments cannot be treated as a continuous source of recruitment and in the view of this Court should be resorted to in rare cases where on the death of the Government servant, a family may be driven to abject poverty, destitution or forced by circumstances into social evils. These elements are largely absent in this case. The present petition has been filed after 12 years of the death. The only other sibling sister holds a Government job as a Stenographer in the Chandigarh Telecom Department, BNNL and has admittedly been living separately since 1996 at Chandigarh while the petitioners live at their native village Mundari Distt. Kaithal.

4. The Director, Animal Husbandry Department, Haryana, Chandigarh has by his letter dated 03.03.2003 rejected the case of the petitioners on the ground that there was no provision in the policy letter dated 15.09.2002 on the subject of ex-gratia appointments issued by the Chief Secretary to Govt. Haryana to provide help to the petitioners with respect to ex-gratia appointment from the family of the deceased employee-late Puran Chand, Bull Attendant. A copy was forwarded to petitioner No. 1 at her known address. It is, therefore, obvious that the cause of action for the first time accrued to the petitioners on receipt of adverse letter dated 03.03.2003 posted through registered letter. A civil suit brought in 2013 would have been barred by limitation. For this reason as well, the present petition suffers from delay and laches which acts as a restraint on writ jurisdiction exercised by this Court.

5. No ground for interference is made out at this distance of time. The writ petition fails and is dismissed.