

No. 33/7/96-5GS II

From

The Chief Secretary to Govt., Haryana.

To

- (1) All Heads of Departments.
- (2) The Commissioners, Ambala, Rohtak, Hisar and Gurgaon Divisions.
- (3) All the Deputy Commissioners and Sub Divisional Officer (Civil) in Haryana.
- (4) The Registrar, Punjab & Haryana High Court.

Dated : Chandigarh the 8th June, 1999.

Subject :—Employment to the dependents of the deceased Govt. employees under the ex-gratia scheme.

Sir

I am directed to invite your attention to the instructions issued by the Govt. vide letter No. 16/5/95-5 GSII, dated 8-5-95, 31-8-95 and 13-8-98 on the above subject and to enclose herewith a copy of the orders passed by the Hon'ble Supreme Court in petition for Special Leave to Appeal (Civil) No. 778 of 1999, wherein the Clause of "One Step Below" has been clarified as under ;—

"This clause means that the offer of appointment to the deceased employee's dependent is not to be on a post equivalent to the one which was held by the deceased employee but should be on a lower post by at least one step."

It is, therefore, made clear that ordinarily the post carrying the lowest scale in class-IV or III, as the case may be, should be offered and the concept of "next below scale" should be applied in rare cases of extreme hardship.

It has also been brought to the notice of the Government that some of the dependents of the deceased Govt. employees insist that they should be given some higher posts on the basis of their qualifications. It is clarified that jobs under ex-gratia scheme are provided to the dependents of the deceased Govt. employees so that the bereaved family can overcome the trauma of death of the bread earner. It should be understood that the job is not being offered to match the persons' qualification but to see the family through the economic calamity. Though if the dependent of the deceased employee finds it below his dignity to accept the post offered, he/she is free not to do so, and may seek employment elsewhere according to his/her deserts. The Hon'ble Supreme Court of India in "Umesh Kumar Nagpal V/s State of Haryana and others." has made it clear that the qualification of the dependent is not relevant. As such this channel of the ex-gratia scheme cannot be used for providing a job according to the qualifications.

The above clarifications may be brought to the notice of all concerned officers/officials under your control for guidance and strict compliance.

The receipt of this letter may be acknowledged.

Yours faithfully,

Sd/—

Superintendent General Services-II
for Chief Secretary to Government, Haryana.

A copy is forwarded for information and necessary action :—

- (i) All the Financial Commissioners & Administrative Secretaries to Government Haryana.
- (ii) Senior Secretaries/Secretaries/Private Secretaries to Chief Minister/Ministers/Chief Parliamentary Secretary for information of Chief Minister/Ministers/Chief Parliamentary Secretary.

Sd/—

Superintendent General Services-II
for Chief Secretary to Government, Haryana.

To

- (i) All the Financial Commissioners and Administrative Secretaries to Govt., Haryana.
- (ii) Senior Secretaries/Secretaries/Private Secretaries to the Chief Minister/Ministers/Chief Parliamentary Secretary.

U.O. No. 33/7/96-5GS II

Dated : 8-6-99

Endst. No. 33/7/96-5GS II

Dated : 8-6-99

A copy is forwarded to all Managing Director, Chief Administrators of Boards/Corporations in the State of Haryana for information and necessary action.

Sd/—

Superintendent General Services-II
for Chief Secretary to Government, Haryana.

In the Supreme Court of India

Civil Appellate Jurisdiction

Petition for special leave to appeal (Civil) No. 228 of 1999

(Under Article 136 of the Constitution of India from the judgement and order dated 3rd November, 1998 of the High Court of Punjab and Haryana at Chandigarh in Civil writ Petition No. 8487 of 1998).

With a Prayer for Interim Relief

1. State of Haryana through the Chief Secretary to Government of Haryana, Haryana Civil Secretariat Chandigarh.
2. The Secretary to Government of Haryana, Home Department, Haryana Civil Secretariat, Chandigarh.
3. Director General of Police, Haryana Sector-6, Panchkula, Haryana.

.....Petitioners

Versus

Rajiv Deshwal Son of Late Shri Mehtab Singh,
resident of Village Anta, Sub-Division
Safidon, District Jind (Haryana).

.....Respondent
22nd March, 1999

Coram :

Hon'ble Mr. Justice B. N. Kirpal

Hon'ble Mr. Justice S. Rajindra Babu

For the Petitioners : Mr. Prem Malhotra, Advocate.

For the Respondent - Mr. Gopal Subramaniam, Senior Advocate
(M/s. Jasbir Malik, Advocate with him)

THE PETITION FOR SPECIAL LEAVE TO APPEAL with a prayer for interim relief above mentioned being called on for hearing before the Court on the 22nd day of March, 1999 upon perusing the papers and hearing counsel for the parties herein. THIS COURT DOTH MAKE the following order :—

"We have heard learned counsel for the parties. The High Court has interpreted the clause which reads as under :

"Further, the compassionate employment being offered shall be at least one step lower than that of the deceased employee except in cases where the deceased employee was working at the lowest level in the Government."

According to the High Court this clause means that an applicant has a right to be considered for appointment to a post which is only one step below the one which was held by the deceased employee.

In our opinion, this interpretation of the said clause by the High Court is erroneous. This clause means that the offer of appointment to the deceased employee's dependant is not to be on a post equivalent to the one which was held by the deceased employee but should be on a lower post by the least one step. Therefore, in the present case when the deceased employee was Deputy Superintendent of Police, the offering of the post of A.S.I. was not incorrect. However, as the High Court has found that four posts of Inspectors were lying vacant to which the respondent could have been appointed we do not wish to interfere in this case. Special leave petition is disposed of in the aforesaid terms."

And Consequently this Court's Order dated 1st February 1999, made, on the prayer for interim relief in the matter above mentioned be and is hereby vacated :

AND THIS COURT DOTH FURTHER ORDER THAT THIS ORDER be punctually observed and carried into execution by all concerned.

WITNESS THE HON'BLE Dr. Adarsh Sein Anand, Chief Justice of India at the Supreme Court, New Delhi dated this the 22nd day of March, 1999.

Sd/—

(VINOD KUMAR)
DEPUTY REGISTRAR (JUDL.)