

Jaspreet Kaur v. State of Punjab, (2023-4)212 PLR 358, PLRonline 469683

PUNJAB AND HARYANA HIGH COURT

Before: Justice Sanjeev Prakash Sharma.

JASPREET KAUR – Petitioner

Versus

STATE OF PUNJAB and others – Respondents

CWP-24591 of 2021

Constitution of India, Article 226 – Compassionate appointment - Married daughter - A married son is eligible for appointment upto the age of 37 years - The source of earning of husband would, therefore, have no reason for consideration while considering the application of a Married daughter.

Cases referred:

1. 2020(3) RCR(Civil) 301, *Amarjit Kaur Vs. State of Punjab*
2. LPA No.462 of 2021, decided on 25.01.2023.

Ms. Alka Chatrath, Advocate and Mr. Manu Sangwan, Advocate for the petitioner. Mr. Paramjit Batta, Addl. A.G., Punjab.

Sanjeev Prakash Sharma, J. (ORAL) - (24.07.2023) - This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 07.06.2021 (Annexure P-23), whereby her application for appointment on compassionate grounds, after death of her father, has been rejected solely on the ground that the petitioner was a married daughter and was therefore, not eligible for appointment in terms of the Government instructions dated 21.11.2002.

2. Learned counsel for the petitioner has referred to this Court to a judgment passed in the case of *Amarjit Kaur Vs. State of Punjab and another, 2020(3) RCR(Civil) 301*, wherein, a Co-ordinate Bench of this Court reached to the conclusion that “a married daughter, who is living with her father along with her husband and children and residing with her mother after death of her father, is totally dependent and would, therefore, be entitled for consideration for appointment under the Scheme of 2002 and held as under:-

“20. The word ‘unmarried in Clause (c) of Note-I, sub-para 2 of para 3 of the 2002 scheme is declared ultra vires of Articles 14 and 15 of the Constitution and, therefore, struck off from the said policy instructions. The said clause would now read as follows:-

“Note-I ‘Dependent Family Member’ means:

- a) XXX XXX XXX
- b) XXX XXX XXX
- c) Daughter (including adopted Daughter); or
- d) XXX XXX XXX”

3. The judgment passed by the Co-ordinate Bench was tested before the Hon’ble Division Bench in LPA No.462 of 2021, decided on 25.01.2023, whereby, the same was upheld as under:-

“25. We are of the considered opinion that the exclusion at the outset in the case of a married daughter is apparently arbitrary. As noticed above, the eligibility aspect and the fact that she may be dependent upon the deceased employee would be subject matter of consideration by the 12 of 26 LPA-462-2021 (O&M), CWP-13941 & 22915-2016, CWP-4251 & 10146-2021 competent authority as per the scheme of the Government. The rejection at the threshold only on the ground of gender would be violative of Articles 14 & 15 of the Constitution of India since in contrast similarly situated sibling like the son who may be married and living separately would come within the zone of consideration since in his case, under Clause (b) of Note-I, it is not that his consideration is excluded being the married son. The policy also further provides that under Clause 6, the eligibility is to be seen and therefore, being excluded by the definition of dependent family member, married daughters are kept out of the zone of consideration of eligibility. Same would thus mitigate against the factor that under Clause 14, an undertaking is also to be given that the family is to be maintained and the property is to be looked after of the deceased Government servant and the appointment can be terminated. Thus, a married daughter is shut out from even applying as she would not come within the zone of consideration whether she is dependent or not but exclusion is only on account of gender and it would be patently discriminatory. The deceased Government employee might have only been blessed with daughters and a widow who is not in a position to take up employment. Merely because the daughters are married would not exclude them from the zone of consideration as they would be in a position to help the widow if they are given employment keeping in view the undertaking which is also to be taken from the said applicant on account of favourable consideration.

26. It has been time and again observed that once a daughter always a daughter while a son might change on account of the fact that he is married and has a wife to look after who could have serious differences with her in-laws. Therefore, in cases of such a situation also, the son would get a right of consideration though married and not on good terms with his parents whereas a married daughter having good relationship with the deceased Government employee and in a position to look after the widow would be excluded.”

4. Faced with the said directions and judgments, learned State counsel submits that the petitioner ought to have placed before this Court details about her husband’s earning and

reasons why she is living with her mother and that she was totally dependent on her late father.

5. I have heard learned counsel for the parties at length and have considered the submissions.

6. In the opinion of this Court, since quietus has already been given by the Division Bench on the issue regarding the question of eligibility of a married daughter for consideration for appointment on compassionate ground in her favour, the submissions raised by learned State counsel, have no basis to be examined. Moreso, as it has been stated at bar that a married son is eligible for appointment upto the age of 37 years. The source of earning of husband of the petitioner would, therefore, have no reason for consideration while considering the application of the petitioner.

7. Keeping in view the aforesaid findings and the conclusion drawn by the Co-ordinate Bench of this Court as well as Division Bench of this Court, the order dated 07.06.2021 (Annexure P-23) is set aside and the petition deserves to be allowed.

8. Accordingly, the present petition is allowed. The respondents are directed to consider the application of the petitioner for appointment on compassionate grounds, after death of her father and pass the orders, within a period of three months from today. If otherwise found suitable, appointment be offered to her.