

**IN THE PUNJAB AND HARYANA HIGH COURT
AT CHANDIGARH**

CWP No.182 of 2014

Date of Decision:07/05/2015

Lakhbir Singh

...Petitioner

Versus

Food Corporation of India and others

... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Harinder Sharma, Advocate
for the petitioner.

Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergill, Advocate
for respondents No.1 to 4.

1. To be referred to the reporters or not?
2. Whether the judgment should be reported in the digest?

DEEPAK SIBAL, J. (Oral)

Through the present writ petition, the petitioner seeks quashing of order dated 10.9.2013 (Annexure P-10) through which his request for appointment on compassionate grounds has been rejected.

The facts in brief as borne out from the record as also after hearing learned counsel for the parties are that the father of the petitioner, who belonged to the scheduled caste category and was working as a Handling Labourer with the respondent-Food Corporation of India (hereinafter referred to as "the Corporation") died in harness on 23.9.2008. After his death through application dated 27.11.2009 the petitioner's mother sought appointment of the petitioner on compassionate basis. The application was forwarded to the competent authority alongwith income certificate of the family of the petitioner which was a measly Rs.25,000/- per annum. The respondents slept over the petitioner's application for nearly three years as only in the year 2012 a committee was constituted to consider

the case of the petitioner which as per record apparently did nothing tangible. Finally, through order dated 3.6.2013 (Annexure P-10), the case of the petitioner was rejected on the ground that it was time barred.

It is ironical that the case of the petitioner has been rejected by the respondent-corporation as having become barred by time when from the above facts, it is clear that the delay was on the part of the respondent-corporation in taking a decision with regard to the application of the petitioner. The respondent-corporation cannot be allowed to take benefit of its own wrong.

In this regard Clause 8 and 9 of the applicable policy for compassionate appointment as appended by the petitioner may be referred to. Clause 8 of the Policy is reproduced below thus:

“TIME LIMIT FOR CONSIDERING APPLICATIONS FOR COMPASSIONATE APPOINTMENT

Prescribing time limit for considering applications for compassionate appointment has been reviewed vide this Department O.M. No.14014/3/2011-Estt. (D) dated 26.07.2012. Subject to availability of a vacancy and instructions on the subject issued by this Department and as amended from time to time, any application for compassionate appointment is to be considered without any time limit and decision taken on merit in each case.” (Emphasis supplied)

Clause 9 of the Policy reads as under:

“BELATED REQUESTS FOR COMPASSIONATE APPOINTMENT

(a) Ministries/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to

manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.

(b) Whether a request for compassionate appointment is belated or not may be decided with reference to the date of death or retirement on medical ground of a Government servant and not the age of the applicant at the time of consideration.

(c) The onus of examining the penurious condition of the dependent family will rest with the authority making compassionate appointment.” (Emphasis supplied)

From the above, it is clear that there is no time limit prescribed for making of claims for compassionate appointments and that even belated claims can be considered. As observed above, the application moved on behalf of the petitioner seeking compassionate appointment was filed well within time and it was the respondents who had virtually slept over the matter for several years in spite of the fact that all documents including the income certificate showing that the income of the family was about Rs.2000/- per month had been duly submitted. While considering the cases of persons seeking compassionate appointment, especially the cases of the families of Class-IV employees or labourers as in the case in hand who have lost their only bread winner, the respondent-corporation was expected to deal with such application with compassion. The facts of the case in hand present an entirely different picture as I find that the respondent-corporation has dealt with the application of the petitioner in a rather callous manner. The application of the petitioner seeking compassionate appointment has been rejected after about four years from the date of such application and what is more disturbing is that the case of the petitioner has not even

considered on merits.

In view of the above, the impugned order dated 3.6.2013 (Annexure P-10) is quashed. The respondents are directed to re-consider the case of the petitioner on merits for compassionate appointment as per applicable policy by passing a speaking order within a period of two months from the date of receipt of a certified copy of this order.

For the harassment caused to the petitioner, I deem it fit to burden the respondents with costs which I quantify at Rs.25,000/-.

The writ petition stands allowed in the above terms.

**(DEEPAK SIBAL)
JUDGE**

**07.05.2015
rajeev**