

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

CWP No. 18051 of 2015
Date of decision: 28.08.2015

Ranjit Singh

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Madhav Pokhrel, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the order dated 11.07.2013 (Annexure P-9) whereby, the request of the petitioner for appointment on compassionate basis has been declined.

The reason which weighed with respondent no. 3 is that the father the application, who was working as a Head Teacher, had died on 06.09.2003. Though the petitioner was not eligible at that time for the job, but there were four elder sisters, who never applied. The purpose of compassionate appointment being requirement of immediate financial help was thus kept in mind and the application has been rejected.

Counsel for the petitioner has vehemently submitted that on the death of the father, his mother had applied on 03.02.2004 that the job may be given to the son as per the guidelines of the Government on his attaining majority. It is his case that the application was filed on 25.01.2011 and, therefore, keeping in view the policy of the State, the petitioner was entitled for appointment.

Unfortunately, this Court is not in a position to agree with the

submissions made by counsel for the petitioner. The petitioner, who was born on 05.07.1991, has chosen to improve his educational qualifications even after attaining the age of majority. Admittedly, he has done his matriculation, 10+2 and D. Pharmacy. Rather in his application, he applied for the post of Pharmacist in the Department of Health and Family Welfare. Subsequently, realizing that as per the policy he was not entitled for the said post on which he has staked the claim since it was a B Grade post, he made a request for appointment to the post of Senior Laboratory Attendant on 07.03.2013.

These facts would go on to show that the family as such was not in a condition of penury which would require immediate succor. The principles laid down by the Apex Court in ***Umesh Kumar Nagpal vs. State of Haryana, 1994 (4) SCC 138*** squarely covers the present case wherein, it has been held that the purpose of compassionate appointment is only to ensure that the family gets over the extreme pecuniary hardship and the appointment on compassionate grounds is an exception to the normal appointments. The relevant observations read thus:-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

7. It is needless to emphasise that the provisions for compassionate employment have necessarily to be

made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis.”

In ***Haryana State Electricity Board v. Naresh Tanwar and Another (1996) 8 Supreme Court Cases 23***, the direction to appoint on compassionate ground, issued by this Court, was set aside by noting that the the purpose of compassionate appointment was an exception and the consideration for such appointment could not be kept pending for years. Relevant observations read as under:

“9. It has been indicated in the decision of Umesh Kumar Nagpal (Supra) that compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the members of the family of the deceased employee. In the other decision of this Court in Jagdish Prasad 's case, it has been also indicated that the very object of appointment of dependent of deceased-employee who died in harness is to relieve immediate hardship and distress caused to the family by sudden demise of the earning member of the family and such consideration cannot be kept binding for years.

10. It appears to us that the principle of compassionate appointment as indicated in the aforesaid decisions of this Court, is not only reasonable but consistent with the principle of employment in government and public sector. The impugned decisions of the High Court therefore can not be sustained.”

Similarly, in ***Shreejith L. v. Deputy Director (Education) Kerala and Others (2012) 7 Supreme Court Cases 248***, it was held that the application for compassionate appointment has to be made within a reasonable time claiming the benefit of scheme of compassionate appointment. The deficiencies and defects, if any, ought to be removed within a reasonable time and an adverse inference is to be drawn against a person in default. The relevant observations read as under:-

*“28. Learned counsel argued that there was no obligation on the part of the Manager of the school to go in search of the legal heirs left behind by an employee who had died in harness. It was submitted, if an employee of the school died in harness and his legal representatives required any assistance in the form of compassionate appointment it is for them to approach the school in that regard by making an application in the manner prescribed. If the legal heirs did not do so, the Manager could reasonably assume that they were not in need of any assistance for otherwise they would ask for the same. There is merit in that contention. We do not see any obligation on the part of the institution or the Manager to go in search of the legal heirs of deceased employees or educate them about their right to seek an appointment under the scheme. If a person is eligible for a benefit under the scheme he can and indeed should on his own approach the institution and seek such an appointment. The view expressed by the High Court in *Baiju Kumar v. D.E.O., Trivandrum (2003) 3 KLT 240*, to which a reference has been made in the judgment, appears to be unreasonable albeit in favour of the legal heirs of the employee. Having said that, we have no manner of doubt that in case an application is made by legal heirs of a deceased*

employee claiming the benefit of the scheme for compassionate appointment, the deficiencies and defects, if any, in the said application ought to be pointed out to the concerned to enable him to remove the same within a reasonable time. But if the defects are not removed within the time granted, an adverse inference could be drawn against the person in default. On the contrary, where an application is filed, entertained and eventually declined for a reason other than the form in which the same ought to have been filed, the rejection cannot be supported before the higher authority or in the Court on the ground that application was non-est as the same was not in the prescribed form. The application for appointment filed on behalf of the respondent could not therefore have been rejected on the ground that the same was not in the prescribed form.”

In the present case, scope for interference in the order is very limited. Even otherwise, the order is being challenged after more than two years after it was passed.

Accordingly, the present writ petition is dismissed.

28.08.2015
shivani

(G.S. SANDHAWALIA)
JUDGE