

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

Civil Writ Petition No. 21245 of 2015(O&M)

Date of Decision: October 7, 2015.

Gursewak Singh

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jagtar Kureel, Advocate
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Instant writ petition has been filed challenging order dated 25.09.2006 Annexure P11 whereby solatium has been afforded to the petitioner's mother instead of appointment on compassionate grounds. Petitioner also challenges communication dated 31.03.2015 Annexure P13 whereby petitioner's case for appointment to the post of Assistant Lineman on compassionate grounds has been rejected on the ground that solatium has already been afforded. Foundation of the petitioner's case is sought to be laid on circular dated 02.06.2010 Annexure P15. It is contended that cut-off date of 16.04.2010 set up in the policy Annexure P15 is discriminatory.

Petitioner's father, namely, Hakam Singh joined respondent – Corporation (formerly Punjab State Electricity Board) as Assistant Lineman on work-charge basis on 06.11.1977. His services were regularized in May 1986. While performing his duties at Sub Division Badhni Kalan under Distribution Division, Faridkot, petitioner's father was electrocuted while replacing the transformer on 25 KVA line near Sadhu Singh Wala. He passed away on the spot. It is averred that petitioner's case with an application for appointment as Assistant Lineman was submitted. It was duly forwarded vide memo dated 11.07.2006 to respondent No.4, Annexure P8. Petitioner's case was thereafter forwarded by respondent No.4 to respondent No.3 vide memo dated 13.07.2006, Annexure P9. Petitioner's case for appointment on compassionate grounds was considered and it was decided on 25.09.2006 that instead of employment on compassionate grounds, solatium of ₹3,00,000/- be awarded to the wife of deceased and special pension as per memo dated 13.07.2006 be released.

After a lapse of nearly eight (8) years, petitioner submitted an application dated 24.02.2015, Annexure P12 for being appointed on compassionate grounds on account of death of his father. Petitioner's claim was however rejected on the ground that the case has already been considered and disposed of in the year 2006. Communication dated 31.03.2015, Annexure P13 was sent to him. Petitioner served a legal notice dated 07.05.2015, Annexure P18 upon the respondents. However, same has been rejected by the respondents vide Annexure P19.

Petitioner stakes his claim for appointment on compassionate basis

as per circular dated 02.06.2010 Annexure P15 duly ratified by the Board of Directors on 10.06.2010. Earlier policy regarding appointment on compassionate grounds has been partially amended and dependant has been given an option to choose between the compassionate appointment and solatium. However, cases prior to dissolution of the Punjab State Electricity Board and formation of Punjab State Power Corporation Limited have been left out of the new policy. A cut-off date i.e., 16.04.2010 has been laid down. It is specifically provided that this decision shall be applicable from 16.04.2010 i.e., the date from which the Board was dissolved and companies instituted. It is cases of employees of the Corporation who died on or after 16.04.2010 which would be covered under the said policy for compassionate appointment. It is contended that the petitioner should be afforded an option as per the new policy and appointment be afforded to him on compassionate grounds.

I have have heard learned counsel for the petitioner and gone through the file.

It is a settled position of law that appointment on compassionate ground is not a vested right. It is a measure adopted by the employer to help the family of a deceased employee tide over an immediate crisis, if any, which is there on account of the death of the employee. It has been observed by the Hon'ble Supreme Court in Umesh Kumar Nagpal v. State of Haryana, 1994 (3) SCT 174 as under:-

“The whole object of grant of compassionate employment is, thus to enable the family to tide over the sudden crises. The object is not to give member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in

harness does not entitle his family to such source of livelihood. The Government or public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provisions of employment, the family will not be able to meet the crisis that job is to be offered to the eligible member of the family.

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The object being to enable the family to get over the financial crisis which it faces at the time of death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

In the present case, petitioner's father passed away on 25.05.2004. Case of the petitioner was considered and decided in the year 2006 vide Annexure P11. After passage of so many years, appointment of the petitioner on compassionate grounds is not warranted. It is a settled position that appointment on compassionate grounds is an exception to normal mode of recruitment which has to be made strictly in accordance with rules, regulations, scheme etc. Petitioner's case undoubtedly has to be governed by the policy which was in place at the time of his father's death. It is not denied that no action was taken to challenge decision dated 25.09.2006, Annexure P11. There is no ground for challenge to cut off date provided in the policy Annexure P15. Authorities are well within their rights to set a particular date for the application of abovesaid policy. Furthermore no discrimination is alleged to have been meted out by specifying any particular circumstance of such benefit being afforded to anyone similarly situated.

Learned counsel for the petitioner is unable to point out any ground

whatsoever on which direction can be issued to the respondents to appoint the petitioner as Assistant Lineman on compassionate grounds in the peculiar facts and circumstances of this case.

Writ petition is accordingly dismissed.

October 7 , 2015.
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(LISA GILL)
JUDGE