

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

CWP-22154 of 2015

Date of decision: November 03, 2015

MEHAKPREET SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. P.P.S. Tung, 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. (ORAL)

Prayer in this writ petition is for quashing of order dated 19th September, 2014 (Annexure P2) whereby respondent No.2 has declined petitioner's prayer for appointment on compassionate ground on account of death of his father Sh. Harvinder Singh on 11th January, 2007.

It is contended that petitioner's father joined Transport Department on 7th September, 1983 on daily wages as a Helper. He died in harness on 11th January, 2007. Application was moved on 22nd January, 2007 for appointment on compassionate ground. No action was taken on this application. *CWP-8465 of 2014* preferred by the petitioner was disposed of with a direction to respondent No.3-General Manager, PRTC to take a final decision thereon.

Pursuant thereto, matter was decided by the competent authority the Managing Director, PEPSU Road Transport Corporation, Patiala. Petitioner's claim was declined vide impugned order dated 19th September, 2014, Annexure P-2. It is specifically mentioned that deceased was working as a labourer on daily wage at the time of his death. His services had not been regularized and, therefore, not being covered under the definition of a Government employee as per instructions dated 21st November, 2002, no benefit can be afforded to the petitioner. Aggrieved therefrom, present writ petition has been preferred.

Learned counsel for the petitioner vehemently argues that the services of petitioner's father had indeed been regularized. Reference is made to Annexure P3 i.e., order dated 4th November, 1996 to suggest that his services were indeed regularized.

Perusal of writ petition itself reveals that petitioner's father had joined the department on 7th September, 1983 as a labourer on daily wage. His father along with four other employees preferred *CWP-7216 of 1997* titled "*Krishan Kukar Vs. Pepsu Road Transport Corp. Patiala*" for regularization of their services. It is relevant to note that said writ petition was preferred after passing of the order dated 04.11.1996, Annexure P-3. *CWP-7216 of 1997* was disposed of with a direction to the Department to adjudicate the claim of petitioner's father as well as other employees. There is nothing on record that pursuant to said direction, services of the petitioner's father were indeed regularized.

It is clearly observed in the impugned order that keeping in view the hardship faced by the daily wage/part-time workers, it was decided to grant at least minimum basic salary plus Dearness Allowance. It was further

decided that they would be covered under the provisions of Employees State Insurance Corporation Act, 1948 and Employee Provident Fund and Miscellaneous Provisions Act, 1952. They would, however, not be entitled to benefits under PEPSU Road Transport Corporation Employees Pension/Gratuity & General Provident Fund Regulations, 1992. This decision came into force w.e.f. 1st November, 2004. Pursuant to said decision, minimum scale only was afforded to the said employees. Their services were never regularized by PRTC.

Dependents of the deceased-Harvinder Singh were granted family pension by the Regional Provident Fund Commissioner, Chandigarh. It is specifically mentioned in the impugned order that PRTC has not granted any kind of family pension to the families of any other deceased daily wage workers. Learned counsel for the petitioner is unable to refute the said facts. He is unable to point out any provision/scheme under which necessary benefit can be afforded to him. Appointments in such cases have to be made strictly in accordance with the provisions of the scheme/regulations for the reason that such appointments are an exception to the rule.

It is well settled that appointment on compassionate basis is not an alternate source of employment. No vested right accrues to the petitioner to be appointed on this basis. 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.

xx xx xx

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.”

Furthermore, it is a matter of record that family pension as admissible to the family of the deceased has been afforded. Petitioner's father passed away in January, 2007. Appointment on the compassionate ground is meant to tide over the sudden crisis, if any, faced by the family on account of the death of employee. There is no justification for a direction to appoint the petitioner on a compassionate basis in the given facts of this case.

Writ petition is accordingly dismissed.

November 03, 2015
m. sharma

(LISA GILL)
JUDGE