

**IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH**

Civil Writ Petition No. 25368 of 2015(O&M)

Date of Decision: December 4 , 2015.

Bhupesh

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Gobind Sharma, 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.

Prayer in this writ petition is for directing the respondents to consider the petitioner's case for appointment on a suitable post on compassionate ground as per policy dated 24.04.1986 and 04.02.2013, Annexures P2 and P8, respectively.

Case of the petitioner is that his father who was working with erstwhile PSEB (now Punjab State Power Corporation Limited) on the post of Lower Division Clerk since 07.11.1975, passed away on 26.12.1985 while in service. His mother approached the authorities for aid vide representation dated 04.02.1986, Annexure P1. Policy regarding priority list for various categories of

persons for employment on compassionate grounds was formulated on 24.04.1986, Annexure P2 by the Government. Petitioner, who was minor at the time of death of his father, submitted a representation dated 02.10.2000 Annexure P3, after fourteen (14) years of his father's death to the Chief Engineer (Admn.), Punjab State Electricity Board, Patiala for appointment on compassionate grounds. Petitioner's case is that respondent-Corporation thereafter adopted policy of awarding solatium to the dependants of deceased employees rather than afford them appointment on compassionate basis. Subsequently, respondent-Corporation again decided to afford employment on compassionate basis as reflected in Annexure P8. It is submitted that petitioner has completed his Masters in History, is a Post Graduate in Human Resource Management and Master of Business Administration, still unemployed, unmarried and in dire need of employment. Thus his case be considered by the authorities and appointment be afforded to him on a suitable post.

It is a settled position of law that appointment on compassionate grounds is not a vested right. It is a measure adopted by an employer to help family of a deceased employee tide over an immediate crisis, if any, which may arise on account of 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.”

Similarly, in **I.G. (Karmik) and others v. Prahalad Mani Tripathi, 2007(3) SCT 483**, Hon'ble Supreme Court has held that public employment is considered to be a wealth and cannot be conferred by descent. It is held as under:-

“5. An employee of a State enjoys a status. Recruitment of employees of the State is governed by the rules framed under a statute or the proviso appended to Article 309 of the Constitution of India. In the matter of appointment, the State is obligated to give effect to the constitutional scheme of equality as adumbrated under Articles 14 and 16 of the Constitution of India. All appointments, therefore, must conform to the said constitutional scheme. This Court, however, while laying emphasis on the said proposition carved out an exception in favour of the children or other relatives of the officer who dies or who becomes incapacitated while rendering services in the police department.

6. Public employment is considered to be a wealth. It in terms of the constitutional scheme cannot be given on descent. When such an exception has been carved out by this Court, the same must be strictly complied with. Appointment on compassionate ground is given only for meeting the immediate hardship which is faced by the family by reason of the death of the bread earner. When an appointment is made on compassionate ground, it should be kept confined only to the purpose it seeks to achieve, the idea being not to provide for endless compassion.”

In the present case, petitioner's father passed away on 26.12.1985. Since then petitioner and his mother have been able to make two ends meet and, in fact, petitioner has been afforded good education as well.

Further, learned counsel for the petitioner is unable to point out any scheme or policy which would permit a child who is minor at the time of death of an employee to be appointed on compassionate grounds on attaining majority. Appointment on compassionate basis is not an alternate mode of recruitment. Merely because the petitioner was a minor at the time of unfortunate demise of his father would not confer any right on him to seek appointment in this manner. Appointments on this count have to be made strictly in accordance with the Schemes/policies which may be adopted by the department.

Keeping in view the peculiar facts and circumstances of this case, no ground is made out for interference by this Court for issuance of a direction to the respondents for appointment on compassionate grounds.

At this stage, learned counsel for the petitioner submits that no solatium has also been paid to the petitioner or his mother.

In the peculiar facts of the case, petitioner, if so advised, may represent for award of solatium, if permissible under the law, which would be considered sympathetically by the authorities.

Disposed of accordingly.

December 4, 2015.
'om'

(LISA GILL)
JUDGE