

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

CWP No.25692 of 2015
Decided on:09.12.2015

Yugpreet Singh

.... Petitioner

Vs.

State of Punjab & Others

.... Respondents

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

Present: Mr. R.S.Sekhon, Advocate
for the petitioner.

G.S.Sandhawalia. J.(Oral)

Challenge in the present writ petition is to the order dated 15.10.2014 (Annexure P-5) where the petitioner's request for appointment on compassionate basis has been rejected by respondent No.2 mainly on the ground that the employee, who was the father of the petitioner, died on 13.11.1998 in an accident. It was, accordingly held that the aim of appointment on compassionate basis/priority basis was to give financial assistance to the family and not to create another source of employment. The mother of the petitioner was also in Government service, at the time of death of the employee and therefore, there is no financial hardship. Challenge is also to subsequent communication dated 16.02.2015 (Annexure P-7) on account of the above decision taken.

The facts would go to show that the petitioner's father was working on the post of B.P.Ed with Government Senior Secondary School, Kesal (Tarn Taran) and died on 13.11.1998 while in service in an accident. The petitioner was 8 years of age at that time since he is born on 01.10.1990. The mother of the petitioner was already in

Government service and has retired in the year 2010. The petitioner attained the age of majority in the year of 2008 but continued pursuing his academic qualifications and has passed out his Bachelor of Education degree in July, 2014. It is not disputed that the application for compassionate appointment was moved on 14.10.2013. Now the ground taken for compassionate appointment is that the mother of the petitioner has also retired and is suffering from a disease namely Hepatitis C and her pension is paltry.

It is settled principle that the objective of appointment on compassionate ground is not another source of recruitment and is only for the aggrieved family to come out of a financial crisis. In the facts and circumstances as apparent, it is clear that the petitioner's family had sufficient income as such and the petitioner choose to pursue his academic courses rather than seeking an employment immediately at the point he turned the major. The application has been filed after almost 5 years and more than 15 years after the death of the employee. In such circumstances, there seems to be no financial crisis, which the family was facing. The judgment of the Apex Court passed in ***Umesh Kumar Nagpal Vs. State of Haryana & others (1994) 4 SCC 138*** stands as a hurdle to grant any relief to the petitioner wherein it is specifically held that the object of compassionate appointment was not to create another source of employment and is only for the purpose to tide over financial crisis. The same reads as under:

"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.”

For the reasons recorded above, no fault can be found in the impugned order and there is no merit in the writ petition and therefore, the same stands dismissed.

09.12.2015
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(G.S.SANDHAWALIA)
JUDGE