

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

CWP No. 9039 of 2014 (O & M)

Date of decision: 18.09.2015

Beant Singh

....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

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

Present: Mr. JPS Sidhu, Advocate,
for the petitioner.

Mr. APS Mann, Addl. A.G., Punjab,
for the applicant-respondents.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 12403 of 2015

Application for placing on record affidavit on behalf of respondents no. 1 and 2 is allowed, subject to all just exceptions.

The same is taken on record.

CWP No. 9039 of 2014

The petitioner seeks quashing of letter dated 16.09.2013 (Annexure P-2) whereby, his request for appointment on compassionate grounds has been rejected by Director, Health and Family Welfare, Punjab.

The order reads thus:-

“It is being written regarding your application concerning above mentioned subject that your case is not covered as per Government instructions for appointment on compassionate grounds.”

The case of the petitioner is that his mother was working as a

Class-IV employee as Sweeper with the Primary Health Centre, Village Kulrian, Tehsil Budhlada, District Mansa and was a regular employee for more than 20 years. She expired on 17.06.2011 and that time, he was residing with her and the family was dependent upon his mother as she was supporting the family. He applied for compassionate appointment in place of his mother, which has been rejected by a non-speaking order, which does not contain any reasons.

An effort has been made to justify the order by filing the written statement and pleading that the petitioner was living separately and not residing with his mother. However, it is settled principle that the order should contain reasons and a subsequent affidavit cannot supplant the reasoning which is to be done.

Reliance can be placed upon the observations of the Apex Court in ***Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others, 1978 (1) SCC 405.*** The relevant observations read thus:-

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. In Gordhandas Bhanji case :

"Public orders publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the

officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself".

Orders are not like old wine becoming better as they grow older."

In such circumstances, communication dated 16.09.2013 (Annexure P-2) is quashed. The competent authority shall take a decision on the application of the petitioner for compassionate appointment by passing a speaking order within a period of 3 months from the date of receipt of certified copy of the order.

Disposed of accordingly.

18.09.2015
shivani

(G.S. SANDHAWALIA)
JUDGE