

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

LPA No. 1133 of 2015 (O&M)

DATE OF DECISION : 19.09.2015

Vivek Singh

.... APPELLANT

Versus

The State of Haryana and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Gobind Dhanda, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 04.03.2014 passed by the learned Single Judge, dismissing the writ petition (CWP No. 4058 of 2014) filed by the appellant for quashing of the letter dated 06.09.2013 (Annexure P-7) sent by respondent No.3 in reply to the legal notice dated 02.05.2013 (Annexure P6) got served by the appellant through his counsel. Vide the said letter, claim of the appellant for his appointment on compassionate ground was rejected.

Though there is delay of 475 days in filing the appeal and the appellant has filed application (CM No. 2401-LPA of 2015) for condoning the said delay, yet we have heard learned counsel for the appellant on merits

and have gone through the impugned order passed by the learned Single Judge.

The appellant is seeking appointment on compassionate ground on account of death of his mother, which had taken place on 05.02.1994. At that time, she was working as Excise and Taxation Officer, and the appellant was minor. The father of the appellant was working as Secretary in the Market Committee, Haryana. Unfortunately, he also died on 19.09.1998. At that time also, the appellant was minor. His elder brother, who was major at that time, was given appointment on compassionate ground on account of death of his father. After the said appointment of his elder brother, the appellant, on attaining the age of majority, also insisted for his appointment on compassionate ground on account of death of his mother. His claim was rejected by the respondents vide letter dated 05.07.1999, which was communicated to him on 29.07.1999. The claim of the appellant was rejected on the ground that at the time of death of his mother, no family member of the deceased was dependent on her, as her husband was in Government employment. The appellant did not challenge the said order for more than 13 years and only in the year 2013, he sent a legal notice to the respondents. In reply to the said notice, the respondents informed the appellant that his claim was rejected way back in the year 1999. The learned Single Judge has considered all these facts and has come to the conclusion that at this belated stage, the appellant cannot be given appointment on

compassionate ground. In this regard, the learned Single Judge made the following observations :

*“Apart from that, the claim of the petitioner cannot, at this belated stage, be accepted in the light of the judgment passed by the Hon'ble Supreme Court in **Umesh Kumar Nagpal Versus State of Haryana & others, (1994) 4 SCC 138**, where it has been held that the whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to help the family from financial destitution. It has further been held that there is no vesting right upon a dependent of the deceased and the same has to be taken into consideration and decided at an early date and the said benefit can be granted keeping in view the exigencies and, therefore, it has to be within a reasonable time. In Paras 6 and 7 of the judgment in Umesh Kumar Narang's case (supra), it was held as follows:-*

“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.”

Even the Full Bench of this Court in Krishna Kumari's case (supra), on which the petitioner has placed reliance, also states that the decision on the application has to be taken within a reasonable time and if there is an inordinate delay, the said benefit cannot be granted to an employee.

It is an admitted position that the brother of the petitioner has already been appointed on compassionate ground and, therefore, it was not a situation where there was no one to take care of the family because of the death of both father and mother. The position being such and keeping in view the judicial pronouncements, referred to above, there is no illegality in the reply to the legal notice dated 06.09.2013 (Annexure P-7) rejecting the claim of the petitioner.”

Learned counsel for the appellant has not been able to controvert the aforesaid factual and legal aspect. Thus, we do not find any reason to interfere with the impugned order passed by the learned Single Judge.

No merit. Dismissed.

**(SATISH KUMAR MITTAL)
JUDGE**

September 19, 2015
ndj

**(MAHAVIR S. CHAUHAN)
JUDGE**