

**1522 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**RSA No.3825 of 2004
Date of Decision: 05.08.2016**

Harbhajan Singh

..... Appellant

Versus

National Fertilizers Limited and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE P. B. BAJANTHRI

Present: Mr. Arun Chandra, Advocate
for the appellant.

Mr. M. L. Saggar, Senior Advocate with
Mr. Rohit Joshi, Advocate
for the respondents.

P. B. BAJANTHRI J. (ORAL)

In the present appeal, the appellant's father who was a driver in the respondent-National Fertilizers Company was appointed in the year 1976. He died on 07.09.1997. As on the appellant's father death, for the purpose of compassionate appointment in respondent company, Policy issued on 01.05.1974 pertaining to the sons/daughters/employees/Ex-employees of the Corporation is appointed to technical or non-technical posts (Class-III and Class-IV) is in vogue.

The appellant submitted an application for compassionate appointment on 20.11.1997. The respondents have taken four years time to consider his application for compassionate appointment and rejected on 12.03.2001. Perusal of the rejection communication is in respect of four persons, it is cyclostyle copy as is evident from the communication dated 12.03.2001 which reads as under:-

“Sub: Employment on Compassionate Grounds

Dear Madam,

With reference to your application dated 20.11.1997 seeking employment for Self/Son in M/s National Fertilizers Limited on compassionate grounds, it is hereby informed that the scheme of providing employment to the dependants of the deceased employees on compassionate grounds, has been dispensed with w.e.f. 11.12.1998. As such, we regret to inform that your request for compassionate employment in National Fertilizers Limited on account of death while in service of Sh. Harpal Singh cannot be considered under the above scheme.”

The appellant's father died on 07.09.1997 as on that date Policy relating to the compassionate appointment is of the dated 01.05.1974. However, while rejecting the appellant's claim for compassionate appointment with reference to Policy dated 11.12.1998. There is a total non-application of mind in issuing the communication dated 12.03.2001 on two counts, firstly, reasons have not been stated in the communication and secondly, it is in cyclostyle copy. Further rejection with reference to the new policy dated 11.12.1998. In other words, the respondents have not taken a decision to appoint the appellant under the old policy dated 01.05.1974.

In this backdrop, the appellant filed a suit on 16.07.2003. The suit was allowed in favour of the appellant. The same was reversed by the Appellate Court stating that compassionate appointment is not a right and with reference to the factual aspects relating to the appellant's father, he had two daughters and they were married. However, as per 1974 Policy, wherein certain conditions are imposed for the purpose of

compassionate appointment has not been taken into consideration. What has been taken into consideration is only a harness in the family. Harness in the family is conclusive and is not supported by any reasons, therefore, Appellate Court order is liable to be rejected.

The appellant is entitled for cost of the litigation for the reasons that appellant's father died in the year 1997. He submitted an application in the year 1997. The appellant's claim was rejected in the year 2001. The respondents have taken four years time to consider appellant's claim for compassionate appointment and upon such consideration is with reference to new policy which is not at all applicable to the appellant. This Court in full bench it was held that policy of compassionate ground appointment would be with reference to the date of death of the deceased employee.

In view of these facts and circumstances, the respondents are liable to pay costs of Rs.25,000/- to the appellant within three months. The respondents are directed to reconsider the appellant's claim with reference to 1974 Policy and eligibility is to be taken as on the date of application (1997) within a period of six weeks from today.

The appeal stands disposed of.

(P. B. BAJANTHRI)
JUDGE

August 05, 2016
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Whether speaking/reasoned: **Yes/No**

Whether reportable: **Yes/No**