

compassionate appointment could not be acceded to since as per his seniority in the list of persons to be appointed on compassionate basis, for want of a vacancy, the petitioner could not be appointed against the 5% posts to be filled up on compassionate basis. However, in lieu thereof, as per applicable Rules, the petitioner was offered an amount of ₹ 2.5 lacs as ex-gratia compensation, to which for over four years, neither the petitioner nor his mother responded to. After remaining silent for over four years of the rejection of the request of the petitioner for appointment on compassionate basis, as also to the offer of ex-gratia compensation, the present petition was filed.

When the matter came up for hearing on 22.04.2016, learned State counsel reiterated the offer of ₹ 2.5 lacs to the petitioner as ex-gratia compensation under the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003. Today, at the time of hearing of the matter, the petitioner, who is present in the Court, through his counsel, refused the offer and stuck to his prayer for seeking compassionate appointment.

The prayer for compassionate appointment, made through the present petition filed in the year 2010, after over six years from the date of the death of his father, and over four years from the date of rejection of his case, cannot be granted as such unexplained and unjustifiable delay, while seeking compassionate appointment, is fatal and after such delay, to grant appointment on compassionate basis, would be against the very object for which such appointment is given. To decline compassionate appointment

on this ground, would be in line with the law laid down by the Apex Court in the case of **Umesh Kumar Nagpal vs. State of Haryana – (1994) 4 SCC 138**, relevant portion of which is reproduced hereunder for ready reference :-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of

granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a 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 the 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 provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in

consideration of the services rendered by him and the legitimate expectations, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

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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 (1989) 4 SCC 468 : 1989 SCC (L&S) 662 : (1989) 11 ATC 878 : (1989) 4 SLR 327 breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”*

To the same effect, is another judgment of the Apex Court in the case of **The Chief Commissioner, Central Excise and Customs, Lucknow and others vs. Prabhat Singh – (2012) 13 SCC 412**, in which it has been held as under :-

“The very object of making provision for appointment on compassionate ground, is to provide succor to a family dependent on a government employee, who has unfortunately died in harness. On such death, the family suddenly finds itself in dire straits, on account of the absence of its sole bread winner. Delay in seeking such a claim, is an ante thesis, for the purpose for

*which compassionate appointment was conceived.
Delay in raising such a claim, is contradictory to
the object sought to be achieved.”*

Thus, in view of the position explained above, no relief can be granted to the petitioner and resultantly, the present petition, being devoid of any merit, is ordered to be dismissed.

No costs.

**(DEEPAK SIBAL)
JUDGE**

April 26, 2016
monika