

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 8358 of 2009

Date of decision: 3.12.2016

Kanta Sharma & anr.

... Petitioners

Versus

State of Haryana & ors.

... Respondents

**CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Ajay Kaushik, Advocate, for the petitioners.

Mr. JS Bedi, Addl. A.G., Haryana.

**RAJIV NARAIN RAINA, J.(Oral)**

Mere recommendation in the case of compassionate appointment does not acknowledge that right to ex gratia employment has matured, accrued and crystallized. The financial assistance offered by the employer to the widow was accepted and credited to her account without demur or protest. If the amount was put by a bank transaction into the account of petitioner No.1 without notice as counsel argues and therefore not a waiver of right to compassionate appointment, she allowed it to continue resting in her account and earned interest for 1 year and 2 months thereon till she turned around to make claim for compassionate appointment for her son. The financial status of the family has not been explained in the petition or before any of the competent authorities whether it was in a precarious condition and produce prima facie evidence that the family was unable to make both ends and meet and was in acute distress financially. The purpose of compassionate appointment is to offer immediate relief and by passage of time the right gets emasculated by remoteness to the death of

the bread-winner. The death of Government employee occurred in 2005 and it is not possible for this Court to interfere in the matter by issuing a mandamus to direct the State to offer appointment to petitioner No.2. It may be noticed that husband/father was serving as an Assistant Sub Inspector in the Police Department and died at rather advanced stage. It is also true in such cases that jobs are not to be given to improve the status of the family and to build careers. Compassionate appointment is an exception to the rule of public appointments which are open to competition to pass the test of Articles 14 & 16 of our Constitution. Besides, the petitioners have made no effort to return the money to the Government or write to the department that the money was paid into bank account surreptitiously.

Learned counsel for the petitioners has pointed out to the letter Annex P-4 written by the widow to the Commandant, 4<sup>th</sup> Battalion, Haryana Armed Police, Madhuban, which has been read out in Court and the same is reproduced below:-

“Sir,

Respectfully, it is submitted that my husband- ASI Yash Pal No.4/52 has expired in a road accident on 07.12.2005. After the death of my husband, I have become completely distressed. The livelihood of mine and my children was dependent on the salary of my husband. My younger son- Aditya Kumar is presently studying in 10+1 Class and in April, 2007, he will pass out the 10+2 examination. I want to get my younger son Aditya Kumar appointed as a Constable in place of my husband. Therefore, under the compassionate policy, after passing of 10+2 examination, my younger son Aditya Kumar may kindly be

appointed as Constable in place of my husband, so that my and my children's livelihood may run smoothly.

I shall be thankful to you.”

In this letter nor in any document available on the file has the truthful financial status of the family been explained whether there was dire financial status and the issue was one of survival. This aspect has been explained by the Supreme Court in Umesh Kumar Nagpal v. State of Haryana & ors., (1994) 4 SCC 138. Even compassion is to be exercised within the law. If petitioner No.1 wants an appointment for her son in place of her husband, she may be reminded that compassionate appointment does not work like the rules of succession and inheritance of property.

For these reasons, I find that there is no merit in this petition and it is hereby dismissed.

(RAJIV NARAIN RAINA)  
JUDGE

3.12.2016  
monika

*Whether speaking/reasoned* *Yes*

*Whether reportable* *No*