

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

Date of decision: 30.11.2016

CWP No.7013 of 2010

Pawan Kumar

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ram Niwas Sharma, Advocate, for the petitioner.

Mr. J.S.Bedi, Addl. AG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner's father expired on December 13, 2005 while in service of a government department. He was aged about 50 years and 9 months at the time. Petitioner's mother applied for appointment of her son i.e. the petitioner, under the ex gratia scheme in the Haryana Government known as Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2005. She died on January 28, 2008. Since there was no vacancy available in the quota meant for ex gratia appointment at the relevant time, the petitioner's case was kept pending awaiting vacancy in the future as per seniority/priority in the list maintained for the purpose and quota to draw from. The claim did not fructify and in the meantime the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 came into force with effect from August 1, 2006, wherein it is specifically stipulated that all pending cases of ex gratia assistance shall be covered by the new Rules. Accordingly, the Excise & Taxation Department accorded sanction of ₹5 lacs as ex gratia

financial assistance to the widow in terms of the prevailing 2006 Rules. However, the family of the deceased refused to accept the amount and insisted on ex gratia appointment to the petitioner. The petitioner was major when the father died. The very fact that the family including the petitioner refused to accept the sum of ₹5 lacs offered by the Nigam shows by inference that the family was not in acute financial crisis. Since the rules of 2006 foreclose all cases of compassionate appointment and leave only financial assistance available to the dependents of the deceased government servant, the rules applicable on the date of consideration would apply, validly foreclosing consideration and expectation for a job in much sought after government office.

At an advanced age of over 50 years, a government servant is normally expected to have organized his financial commitments towards his family with only few years of service left. Ex gratia appointments are not based on rules of succession and inheritance and the Court would not aid the petitioner in passing on the father's baton to the son for another three decades or less to be paid by taxpayer's money to which many of us contribute. Compassionate appointment is not a career launcher or meant to enhance the status of the family. The petitioner has not disclosed in his petition what constructive steps he had taken to try for a job in government sector and whether he applied for any post and remained unsuccessful, to show that effort was consistently made and despite that; the family faces penury. This, in case done, would have shown that he took active steps in marking his career for himself on his merit, skill and talent. He has failed to do so. It is for him, like every ordinary citizen to organize or reorganize his life to suit his condition and station in his community, but he cannot be heard to do so on the crutches of a writ of mandamus he expects might be

issued by this Court directing the respondents to provide him a job by breaking the queue of Article 16 of his Constitution, which is ours too. Hence, the case for compassionate appointment is not on terra firma and is found fit to be rejected. Financial assistance is a far cry to be given to the petitioner at his age as if it were manna from heaven, an unexpected help to provide him with a rain check, or for the Court anyhow to lend its comforting hand. Law should have no surprises in store. There are no lollipops for the court to give to a crying adult to pacify him. Shakespeare wrote in Hamlet, Act 3, Scene 4: *"I must be cruel only to be kind. Thus bad begins and worse remains behind"*

Consequently, the petition fails and is dismissed in hindsight.

However, the petitioner is granted liberty, despite this order, to approach the authorities to reconsider his case and offer him financial assistance, if the Department is still willing to pay, since he may have thought that if he accepts the financial assistance, then he may lose his right to seek compassionate appointment.

30.11.2016
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether Speaking/Reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>