

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

Sr. No.105

CWP-22556-2013

Decided on : 28.03.2016

Satish Kumar

..... Petitioner

VERSUS

Haryana Power Generation Corporation
Ltd., Panchkula and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

To be referred to Reporters or not?

Whether the judgment should be reported in the digest?

Present: Mr.J.S.Maanipur, Advocate, for the petitioner.

DEEPAK SIBAL, J.

Through the present petition, the petitioner seeks
compassionate appointment.

After hearing counsel for the petitioner and having perused
the record with his able assistance, in my considered opinion, the
petitioner cannot be ordered to be appointed on compassionate basis and
the reasons to arrive at this conclusion are that the petitioner's father
while serving the respondent-corporation as an Auto Mechanic, on work
charged basis, died in harness on 31.12.1986. After an inordinate and
unexplained delay of nearly 9 years i.e. on 15.09.1995, the petitioner for
the first time applied to the respondent-corporation for being appointed
on compassionate basis. The petitioner's mother had also made an
application for being appointed on compassionate basis, which through

order dated 30.09.1996 was rejected. The petitioner and his mother both kept quiet for over four years thereafter as they sought to reopen the matter pertaining to their prayer for seeking compassionate appointment only through legal notice dated 09.11.2000.

The record further reveals that through another legal notice dated 02.08.2002, regularisation of the services of the petitioner's father and family pension as a consequence thereof was demanded. The legal notice dated 02.08.2002 having gone unanswered, the petitioner's mother through CWP-17555-2002 "Chameli Devi Vs. HPGCL and others" approached this Court, seeking directions to the respondent-corporation to dispose of the legal notice dated 02.08.2002. This Court accepted the prayer made by the petitioner's mother and issued directions to the respondent-corporation to take a decision in the legal notice dated 02.08.2002, which in compliance with the order of this Court was considered by the respondent-corporation and rejected vide order dated 08.01.2003 which was challenged before this Court by the petitioner's mother through CWP-11530-2003 "Chameli Devi Vs. HPGCL" which was disposed of by passing the following directions: -

"2. The impugned order was passed not on the ground that he could not be treated as regular but on the ground that the petitioner was receiving pension from the Provident Fund authorities and hence, the benefit cannot be obtained by the petitioner under both the EPF Act and the Civil Services Rules. Even while accepting the reasoning given in the impugned order, I would direct, in the light of the submissions made by the counsel appearing on behalf of the petitioner, that if the petitioner opted to take family pension under the Civil Services Rules and give up the benefit already secured from the EPF Commissioner, Karnal, the petitioner shall be admitted to such a benefit. The petitioner shall first give undertaking to the EPF Commissioner that the pension secured by her shall not be

claimed in future and that she would restrict her claim only from the first respondent for family pension. If there is any amount payable in excess by way of family pension over the amount received by the petitioner from the Provident Fund Commissioner, the excess amount shall be calculated and released to the petitioner within 8 weeks from the date of receipt of copy of this order. The first respondent shall coordinate its efforts with the EPF Commissioner so that the petitioner is not put to any inconvenience of being stopped with the benefit of the pension received from the EPF Commissioner, even when the family pension is not issued. The authorities will ensure that the stoppage of pension from the EPF Commissioner shall operate only after the proceedings are issued by the respondent admitting the petitioner to the entitlement of family pension and the payment order is issued. Till such time as the order is passed by the first respondent, the petitioner shall continue to receive the pension from the EPF Commissioner. Since the office of the EPF Commissioner is not a party before this Court, the petitioner is at liberty to supply a copy of this order to the said authority to ensure that there is a proper coordination between the authorities and the order passed is given effect to in the light in which it is made.

3. The writ petition is disposed off with the above directions.”

As per the afore-quoted directions, the services of the petitioner's father were regularised on the happening of which event the present petition has been filed, seeking compassionate appointment on his father's death in harness.

The petitioner's father died on 31.12.1986. The record reveals that the petitioner's first application seeking compassionate appointment was made on 15.09.1995 i.e. 9 years after his father's death. The petitioner's mother had also filed an application for being appointed on compassionate ground but the same was rejected on 30.09.1996. For about 5 years after the petitioner's first application seeking compassionate appointment and for over 4 years after the rejection of the application for compassionate assistance by the petitioner's mother, both of them kept

quite as they sought to reopen the issue for compassionate appointment only through legal notice dated 09.11.2000. Thereafter for another period of two years they kept mum and woke up on 02.08.2002 on which date they got served upon the respondents another legal notice. When the later legal notice went unanswered, the petitioner's mother filed a writ petition in this Court being CWP-17555-2002 in which the only prayer made was to direct the respondent-corporation to take a decision on the issue of regularisation of the services of the petitioner's father. The issue with regard to appointment on compassionate ground was not even pressed. CWP-17555-2002 was disposed of with a direction to the respondents to decide the petitioner's legal notice on the rejection of which the petitioner's mother again approached this Court through CWP-11530-2003. In this petition also the only prayer was with regard to regularisation of services of the petitioner's father and as a consequence thereof to receive family pension.

In view of the aforesaid initial and later inordinate delays in seeking compassionate appointment as also on the basis of Order 2 Rule 2 of the CPC, the principles of which would also apply to the writ proceedings, the petitioner cannot be granted compassionate appointment.

The reliance by the petitioner on the policy dated 22.12.1970 pertaining to ex-gratia appointment, is equally misconceived as the same specifically provides that the basic object under the policy is to give urgent assistance and, therefore, no delay should be allowed to occur.

Clause 3 of the policy is reproduced hereinbelow for ready reference: -

“3. It may be added that the basic objective is that an assistance in such cases is needed urgently, it should be provided with the minimum loss of time. It is, therefore, essential that each such case should be dealt with most expeditiously at all stages and no delay is allowed to occur. In particular if sanction of certain items must take some time because of the need for examination etc. the other items e.g. sanction of the ex-gratia grant should not be held upon that account and instead should be allowed, separately.”

In the present case, as noticed above, the petitioner's father died on 31.12.1986 i.e. about 30 years ago and that the petitioner had for the first time applied for seeking appointment on compassionate basis after nearly 9 years i.e. on 15.09.1995 after his father's death.

In view of the above, no benefit of the policy can be given to the petitioner.

Thus, viewed from different angles, no merit is found in the petition.

Dismissed.

28.03.2016
shamsher

[DEEPAK SIBAL]
JUDGE