

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

**CWP No. 27611 of 2013**  
**Date of decision: 05.01.2016**

Sushil Kumar

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA**

Present: Mr. S.L. Chander Shekhar, Advocate,  
for the petitioner.

Mr. Avinit Awasthi, AAG, Punjab.

**G.S.SANDHAWALIA, J. (Oral)**

The petitioner, in the present writ petition, challenges the order dated 30.04.2013 (Annexure P-11) whereby, respondent no. 3 has rejected the case of the petitioner for providing a job on compassionate grounds on account of the fact that the case does not fall under the Punjab Government instructions dated 03.07.2008 (Annexure P-14). A writ of mandamus is also prayed for to provide a suitable job to the petitioner as per the policy.

In the written statement, the order has been justified by submitting that the petitioner had failed to apply for a job on compassionate grounds till 04.09.2009 and there was a delay of 3 years and 8 months from the date he became eligible for the Group-D post. The plea taken is that he had attained the age of 16 years on 11.12.2005 and the application for appointment has been made on 04.09.2009. As per the instructions dated 03.07.2008, no relaxation can be provided under any circumstances.

The said order cannot stand judicial scrutiny. It is not disputed

that the petitioner's father was working as a Class-IV employee with respondent no. 3 and died on 21.04.2000 and the mother had already expired on 04.11.1998. It has been pleaded that the petitioner was looked after by his elder sister who was also minor and at the time of the death of the father, the petitioner was only aged 11 years having been born on 11.12.1989 (Annexure P-3). A perusal of the record would go on to show that even though the petitioner was a minor, his grand father namely Ram Sharan Dass had acted promptly in applying for the job on compassionate grounds immediately after the death of the employee. This would be apparent from the letter dated 06.08.2003 (Annexure P-4) addressed to the grand father by the Employment Officer, Tarn Taran. The said letter reads thus:-

*“Letter number 21/30/97/M-1/13353 dated 07/07/2003 of Director employment department, Punjab, Chandigarh, it is hereby informed that Sushil Kumar s/o late Sh. Satish Kumar whose case comes under job on compassionate grounds. Case should be again submitted when he attains the age of majority or adulthood for govt. Service, so that case could be again sent to Director employment department, Punjab, Chandigarh.”*

A perusal of the letter would go on to show that the case of the petitioner was deferred only on account of the fact that he had to attain the age of majority or adulthood for government service and the case would be again sent to the Director, Employment Department, Punjab.

Thus, it is apparent that the petitioner had already applied but due to his minority, his case could not be taken up. As per the Government instructions dated 21.11.2002 (Annexure P-13) whereby, the scheme for

compassionate appointments has been framed and as per Clause 13, an application had to be given within a period of 6 months from the date of death and the appointment was to be made within a period of one year within the department and two years in other departments. Genuine belated requests could be entertained only from the date of 5 years from the date of death or disability. Since there was no provision for minors whose parents might have died during their stage of minority, the Government subsequently issued instructions dated 03.07.2008 (Annexure P-14) wherein, the proviso was added to clause no. 13. It is by virtue of this that there was a time period fixed that the person could apply within a period of one year from attaining the age and educational qualifications for Group 'C' and Group 'D' appointments. The relevant para reads as under:-

*“Provided that in the case where the deceased Government employee leaves behind his/her minor children, who are studying at the time of death of the employee and are not qualified for an employment in the government and the spouse is not in a position to join the Government job, a dependent child may be allowed to apply for compassionate appointment by the competent authority within a period of one year from the date of attaining the age and educational qualifications for a Group 'C' or 'D' appointment in government.”*

It is in pursuance of this amendment or modification dated 03.07.2008 that the petitioner's case has been rejected on the ground that he applied after a period of one year and should have applied within a period of one year from attaining the age of 18 years.

As noticed, the purpose of the instructions and the subsequent

amendment is to give benefit and to provide succor to the family of the deceased employees and the purpose is beneficial in nature. The petitioner being minor could not have been adjusted at that point of time even though his grand father had applied expeditiously and as noticed, the matter was kept in abeyance on account of his minority. Once the application is already pending consideration and the petitioner was only seeking to revive his application, it would not lie in the mouth of the respondents to deny him on a technicality that he had not applied within the prescribed period as provided under instructions dated 03.07.2008. The said order has only resulted in a denial of the right which has been given under the scheme for appointment on compassionate grounds to help the family get out of the financial stringencies on account of the death of the government employee. The petitioner's father had died a decade and a half earlier and he has been fighting for his rights and the impugned order has thus been passed in an arbitrary manner without checking the record.

Accordingly, impugned order dated 30.04.2013 (Annexure P-11) is not liable to be sustained and is quashed. Resultantly, the respondents are directed to reconsider the case of the petitioner for compassionate appointment unfettered from the limitation clause. The said exercise be carried out by respondent no. 2 within a period of 3 months from the receipt of certified copy of the order.

Accordingly, the present writ petition is allowed.

05.01.2016  
shivani

(G.S. SANDHAWALIA)  
JUDGE