

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4629 of 2016
Date of Decision: 11.03.2016

Sushil Kumar

... Petitioner

Versus

Punjab State Power Corporate
Limited and others

... Respondents

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

Present: Mr. Raman Mohinder Sharma, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner seeks directions to the respondent Punjab State Power Corporation Limited to offer him compassionate appointment in place of his father, who died working as a Lineman in Sirhind in May 2002. The petitioner has not disclosed in the petition the age of his father at the time of death nor his own date of birth except to indicate that the petitioner passed his 10+2 examination in the year 2002. It is also not pleaded in any of the paragraphs of the petition as to what was the financial status of the family on the death of the Government servant and what is the position today. General statements have been made in paragraphs 8 and 9 of the petition to the effect that posts equivalent to the post held by the deceased employee are open to compassionate appointment in Class-III & IV service. If the dependent finds it *infra dig* to accept the post offered, he is free not to do so. Posts are not offered to cater to status but to see the family through the economic calamity it might face and is aimed to tide over the financial

crisis which it faces at the time of the death of the sole bread winner. These are the postulates in consideration of a case for compassionate appointment in the light of policy framed by the employer. But material particulars have not been pleaded as to the status of the family for the Court to intercede in the matter.

2. It is, of course the business of the employer to gauge the financial status and not for the Court but at least in a writ of the present kind the Court expects material facts to be pleaded on the only aspect required for consideration, i.e., whether employer or Court should save a family in penury to keep the wolf from the door. Merely because, a legal notice has been served on the employer in October 2015 is not sufficient to activate the discretionary writ jurisdiction by a casual direction to decide the same in a time bound manner. This casual approach in cases of compassionate appointments has to be eradicated at the threshold and the petition should be dismissed for want of material particulars pleaded in the petition necessary for interference and grant of relief.

3. If a direction is issued to the respondents as orally prayed for at the hearing it may lead to passing blind orders which are capable of being construed by the administration as condoning issues of delay and laches etc. The time lag between the death of the father in 2002, the request of the petitioner's mother in August 2002 and the filing of an affidavit in December 2009 by the mother when the respondent-Corporation demanded declarations that she was not working in any Government or semi-Government department and receiving family pension, and thereafter serving a legal notice in October 2015 on the respondents is playing a game

of roulette where players choose to place bets on either a single number or a range of numbers in odds or even. The spinning wheel may not bring relief on the number chosen. The present petition appears to be a betting game played in Court. It is well settled that cause of action means every fact, which if traversed, would entitle a suitor to a decree. Meaning thereby, the material facts which are imperative to allege and prove, constitute the cause of action. The writ petition lacks in these essential ingredients to consider grant of relief.

4. As often said, compassionate appointment is not a matter of right. If it is accepted that the petitioner passed his 12th Class examination in 2002 then 14 years have gone by which is sufficient time for the petitioner to have settled himself in a job and contribute to the well being of his family, including his mother. The exception to the rule of appointments in conformity with Articles 14 and 16 of the Constitution of India can be pressed in exceptional cases in terms of policies of the employer. The petitioner makes no reference to policies of the Corporation of ex-gratia appointments.

5. I have no reason to interfere in this matter and would dismiss the petition. However, the dismissal of the petition will not preclude the petitioner to carry on with his efforts to seek compassionate appointment if a policy has been in existence on and since the date of the death of his father and his case falls squarely within its terms.

(RAJIV NARAIN RAINA)
JUDGE

11.03.2016
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