

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 7394 of 2014 (O&M)

Date of decision : January 8, 2016

Sandeep Kumar

.....Petitioner

Versus

PSPCL and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Akshay Jain, Advocate
for the petitioner.

Mr. Gursimranjit Singh, Advocate for
Mr. Amit Aggarwal, Advocate
for the respondents.

LISA GILL, J.

Petitioner prays for quashing of memo dated 23.01.2014 (Annexure P-12) wherein his request for grant of appointment on compassionate basis has been declined.

Facts, as revealed in the writ petition, are that petitioner's father who was working as Lower Division Clerk with Punjab State Electricity Board now Punjab State Power Corporation Limited went missing on 13.05.2006. DDR No. 4 dated 20.05.2006 was registered at Police Station Bhikhi, Tehsil and District Mansa regarding his disappearance. Unfortunately petitioner's father could not be traced.

It is averred that petitioner's family applied for compassionate appointment immediately after his father's disappearance. Petitioner's mother vide letter dated 20.08.2008 (Annexure P-9) was informed that the Department would consider issue of providing financial help only after expiry of seven years of disappearance of employee. It is relevant to note, at this stage, that neither application nor affidavit submitted by petitioner's mother at that point of time has been brought on record.

Petitioner cleared his Matriculation in June 2002 and Senior Secondary Examination in June 2004. In the meanwhile, he completed his Graduation in the year 2010 and obtained his Masters degree in Information and Technology from Punjabi University, Patiala in the year 2012. Petitioner/petitioner's mother again approached the authorities for appointment on a suitable post on compassionate basis.

Respondent vide order dated 14.10.2013 (Annexure P-10) decided that instead of affording a job on compassionate basis, solatium be released to the wife of the deceased employee i.e. petitioner's mother. Special pension would also be sanctioned to her.

Petitioner's mother, thereafter, vide representation dated 10.12.2013 (Annexure P-11) prayed for appointment of her son on compassionate basis rather than solatium. Respondent-Corporation vide impugned memo dated 23.01.2014 rejected her request with the observation that solatium and special pension had been sanctioned and as per instructions, only those cases for the period after 16.04.2010 are to be considered for option of appointment on

compassionate basis. Petitioner's father had been declared dead w.e.f. 20.05.2006, thus, petitioner cannot be considered for appointment on compassionate basis.

Learned counsel for the petitioner has vehemently argued that rejection on the ground that petitioner's father was declared to be dead w.e.f. 20.05.2006 is illegal, discriminatory and arbitrary. Persons who have raised their claim after 16.04.2010 cannot be held entitled for a benefit to which petitioner is being denied only on the basis of a particular cut-off date. Furthermore, his case can be considered to one subsequent to 16.04.2010 as period of seven years from 20.05.2006 would elapse after 16.01.2010.

Be that as it may, this Court cannot lose sight of the fact that petitioner's father went missing on 20.05.2006. Solatium as well as special pension has been awarded by the respondent-Corporation to petitioner's mother.

It is a settled position of law that appointment on compassionate grounds is not a vested right or a mode of alternate recruitment. It is a measure adopted by an employer to help family of a deceased employee tide over an immediate crisis, if any, which may arise on account of death of the employee. It has been observed by the Hon'ble Supreme Court in **Umesh Kumar Nagpal v. State of Haryana, 1994(3) SCT 174** as under:-

“The whole object of grant of compassionate employment is, thus to enable the family to tide over the sudden crises. The object is not to give member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness

does not entitle his family to such source of livelihood. The Government or public authority concerned has to examine the financial condition of the family of the deceased and it is only if it is satisfied that but for the provisions of employment, the family will not be able to meet the crisis that job is to be offered to the eligible member of the family.

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The object being to enable the family to get over the financial crisis which it faces at the time of death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.”

It is apparent from the record that petitioner has managed to complete his higher studies in the interregnum. Furthermore, in the year 2008 itself, respondent-Corporation had clearly observed that department would consider the issue of providing financial help after expiry of seven years of disappearance of the employee. Therefore, it was made clear in 2008 itself that consideration would be made only on the issue of financial help to the family of the deceased employee.

Learned counsel for the petitioner is unable to point out any infirmity or illegality in the impugned order or action of the respondent-Corporation in denying appointment on compassionate basis to the petitioner.

Consequently, this writ petition is dismissed.

January 8, 2016
rts

(Lisa Gill)
Judge