

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.2772 of 2010 (O&M)
Date of Decision:- 23.08.2016.

Dinesh

.....Appellant

Versus

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Sanjeev Gupta, Advocate for the appellant.

Mr. Jasmeet Singh Bedi, Additional A.G. Haryana.

P.B. BAJANTHRI, J. (Oral)

1.) The appellant has assailed the order of the Appellate Court dated 30.3.2010.

2.) Appellant is son of late Hira Lal. Late Hira Lal was working as a Fitter in the Haryana Roadways. While late Hira Lal was serving Haryana Roadways, he died on 10.04.1996. Appellant's mother submitted an application for compassionate appointment to her son as and when he attained majority. While considering her representation, the respondents have made clear that Policy of the Government dated 8.5.1995 states that compassionate appointment can be given within three years from the death of an employee to his/her legal heirs. Thus, appellant's mother was informed that she can make an application for compassionate appointment and the same would be considered. Despite informing her the above facts and circumstances that how the compassionate appointment would be given

to legal heirs, she insisted the respondents to appoint her son as and when he attained majority. It was further requested by her that due to domestic problem she be accommodated in Punjab State. The appellant made claim for compassionate appointment for the first time on 19.8.2006 i.e. more than after a decade. Learned counsel for the appellant vehemently contended that limitation issue may not come in the way of giving compassionate appointment to the appellant for the reasons that he attained majority only in the year 2006. Therefore, there is no bar for consideration. It was further contended that appellant's grievance relating to compassionate appointment has not been considered with reference to the economic conditions of the family. Learned counsel for the appellant relied on number of decisions of this Court reported in 1996 (2) S.C.T. 446 (Daya Kaur [widow] Vs. Haryana State Electricity Board), 1994 (1) S.C.T. 9 (Smt. Chandro Devi Vs. The State of Haryana) and 1995 (4) S.C.T. 746 (Hakim Singh Vs. H.S.E.B. and another). In all these cases, the question of limitation has been taken note of and held that as and when applicant/dependent attained majority, from that date, number of years and limitation is to be taken into consideration.

3.) Per contra, learned counsel for the respondents submitted that the appellant's mother was given information on 15.5.1997 offering her appointment. The appellant's mother refused the same and requested for his son's appointment as and when he attained majority. Thereafter, the respondents have informed mother of the appellant stating that there is a restrictive clause in the instructions dated 8.5.1995 that compassionate appointment could be given within three years from the date of death of an employee. Despite that she has submitted representation stating that her son

should be accommodated for compassionate appointment. In the absence of challenge to the communication dated 15.5.1997 by which offer of appointment has been made and also it was indicated that she is eligible to make application, thereafter, she has failed to make an application for compassionate appointment. Consequently, the communication dated 15.5.1997 has attained finality. The appellant has no *locus standi* to seek compassionate appointment on 19.8.2006 i.e. after lapse of more than a decade. Instructions governing compassionate appointment do not permit for relaxation of limitation period.

4.) Heard learned counsel for the parties.

5.) The short question for consideration in this case is whether the appellant is entitled for compassionate appointment on account of his father's death on 10.4.1996 in the year 2006 or not? Further whether the economic conditions of the appellant's family has been taken into consideration by the respondents or not? Perusal of the records, it is indisputable that appellant's father died on 10.4.1996. Her mother submitted application on 15.5.1997 seeking compassionate appointment to her son who was a minor and requested the respondents to appoint her son as and when he attains majority. Thereafter, the respondents have specifically informed appellant's mother that compassionate appointment could be given as per the policy dated 8.5.1995 within three years from the death of an employee. Despite that appellant's mother did not submit her application for compassionate appointment. On the other hand, she was insisting for appointing her son on compassionate ground as and when he attains majority. The object of giving compassionate appointment is to meet the harness in the family. The harness would be in the family due to death

of a bread earner which would be in vogue immediately for certain period. It cannot be stretched to more than a decade since family sustained for more than a decade. In the present case, appellant is seeking compassionate appointment after more than a decade. The respondents' hands were tied in considering the appellant's compassionate appointment beyond three years from the date of death of his father i.e. on 10.4.1996. As and when three years are completed, appellant was still minor, therefore, the appellants mother could have requested for appointment as offered by the respondents. The judgments relied on by learned counsel for the appellant are prior to 1995 and the instructions have not been interpreted or instructions relating to clause pertains to restricting the appointing authority to consider compassionate appointment within three years from the date of death of the employee has not been struck down or read down when it is intact the same is bound by the appointing authority, therefore, the cited decisions are distinguishable. The Supreme Court time and again held that insofar as compassionate appointment is concerned, it is not a matter of right and also not a Fundamental Right. It is also held that belated claim of compassionate appointment is impermissible having regard to the object of issuance of compassionate appointment is to meet the immediate harness in the family when the bread earner is no more in the family.

6.) In view of the above facts and circumstances, appeal stands dismissed.

(P.B. BAJANTHRI)
JUDGE

August 23, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-	Yes / No.
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