

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

**L.P.A. No. 1667 of 2015
Dated: 8th February 2016**

Amritpal Soi Appellant

Versus

State of Punjab and others Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. G.L.Bajaj, Advocate
for the appellant.

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LISA GILL, J.

The appellant challenges order dated 21.9.2015 whereby his claim for appointment on compassionate basis has been rejected, consequently upholding the rejection of his claim by the authorities vide Memo dated 9.6.2014 (Annexure P-10 with the writ petition), on the ground that his case is not covered under the relevant Instructions issued by the Government for appointment on compassionate basis.

The undisputed facts are that the appellant's brother Deepak Soi was working as a Constable with respondents No. 2 and 3 when he passed away on 14.2.2002. At the time of his death, Deepak Soi was unmarried, residing with his parents Darshan Lal and Nirmala Devi as well as brothers Amarpreet Soi and the appellant. The appellant's brother Amarpreet Soi submitted an application for appointment on compassionate basis on the

death of his brother. However, Amarpreet Soi also passed away on 29.1.2008. Subsequent thereto, the appellant's mother Smt. Nirmala Devi requested for appointment of the appellant on compassionate basis in place of Deepak Soi vide representation (Annexure P2). The claim for appointment on compassionate basis was rejected by the Commandant, 2nd India Reserve Battalion Ladda Kothi, Sangrur vide Memo dated 9.6.2014 (Annexure P-10) not being covered by the relevant instructions issued by the government. A brother of a deceased employee not being eligible for consideration for appointment on compassionate basis. Rejection of the claim was challenged by the appellant by preferring C.W.P. No. 5091 of 2015 which has been dismissed vide the impugned order dated 21.9.2015.

Learned counsel for the appellant submits that the appellant and his family have no other source of income and there is no bar for the appointment of a brother on compassionate basis. Clause 3(i) of the Policy/Instructions dated 19.9.2002 (Annexure P9) has been wrongly interpreted by the learned Single Bench. Clause 3 of the said instructions merely deals with competing claims of various dependents to be decided by the District Magistrate. Furthermore, the learned Single Judge has erred in holding that the appellant's claim is stale as his brother has died in the year 2002. The appellant's brother Amarpreet Soi who had asked for appointment on the death of Deepak Soi had unfortunately died on 29.1.2008 and the matter had not been decided by the authorities till then. The claim of the appellant had been submitted thereafter, thus there is no delay on his part. It is prayed that in these circumstances, the impugned orders be set aside and the appellant be offered employment as claimed.

Having heard learned counsel for the appellant and going

through the file, we do not find any merit in this appeal.

It is a settled position that appointment on compassionate basis is not a vested right. It is an exception carved out to help the immediate family of the deceased employee to tide over a financial crisis, if any, which may arise on his death. Appointment on compassionate ground is not an alternate mode of recruitment. In such a situation the learned Single Bench has rightly relied upon the observations of Supreme Court in ***Umesh Kumar Nagpal v. State of Haryana and others (1994) 4 SCC 138*** and ***Haryana State Electricity Board v. Naresh Tanwar and Another (1996) 8 Supreme Court Cases 23*** as well as ***Shreejith L. v. Deputy Director (Education) Kerala and others (2012) 7 Supreme Court Cases 248***. Learned counsel is unable to deny that there are no Instructions/Policy which entitles a brother of the deceased employee to appointment on compassionate basis. Instructions dated 19.9.2002 (Annexure P9) clearly mention the dependents of a deceased employee as widow/widower, sons, daughters, adopted sons and adopted daughters. A perusal of representation (Annexure P2) further reveals that the appellant is married having three children and his parents are receiving pension.

The appellant's brother passed away in the year 2002, therefore, to suggest that the appellant is entitled to appointment on compassionate basis having raised a claim in the year 2008 on the death of his other brother Amarpreet Soi, who had earlier submitted a request for appointment on compassionate basis, is clearly untenable. The appellant is not vested with any right whatsoever to be appointed on compassionate basis as a dependent of his deceased brother Deepak Soi.

In view of the aforementioned facts and circumstances, we do

not find any illegality, infirmity or error of law to invite interference by this Court. Consequently, this appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

(LISA GILL)
JUDGE

8.2.2016
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