

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.352 of 2016 (O&M)

Date of Decision: 15.09.2016

Vijay Kumar

... Appellant

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

- | | |
|--|-----------------|
| 1. Whether speaking / reasoned? | Yes / No |
| 2. Whether reportable? | Yes / No |
| 3. Whether Reporters of local papers may be allowed to see the judgment? | Yes / No |
| 4. To be referred to the Reporters or not? | Yes / No |
| 5. Whether the judgment should be reported in the Digest? | Yes / No |

Present: Mr. MK Dogra, Advocate for the appellant

SURYA KANT, J. (Oral)

CM-753-LPA-2016

For the reasons mentioned in the application, the same is allowed and the delay of 149 days in re-filing the appeal is condoned.

CM stands disposed of.

LPA-352-2016

(1) The appellant assails the order dated 03.07.2015 whereby learned Single Judge has turned down his claim for appointment on compassionate grounds under the *ex gratia* policy. The reason for rejection of the appellant's claim is the time gap between the date of unfortunate death of his father and the stage when such claim came up for consideration. The appellant's father was working as an Upper Division Clerk in the Power Corporation/Board when he unfortunately died in an accident on 07.10.1998. The appellant's application for appointment on compassionate grounds was submitted on time i.e. on 29.12.1998 but no decision was taken compelling him to approach this Court in the year 1999. The writ petition was disposed of on 04.02.1999 with a direction to the respondents to consider his claim within three months.

(2) The authorities received two separate claims: one from the appellant being the son of the deceased and another from one Smt. Sunita Kathuria claiming herself to be the wife of deceased. This led the Board to file an Interpleader Suit in the Civil Court for determining the rightful claim. The suit was decreed in favour of the appellant on 04.03.2005 and the said decree was subsequently upheld by this Court on 11.12.2007. Such unforeseen circumstances thus caused delay in considering the appellant's claim for appointment on compassionate grounds. In lieu thereof, he has been offered monetary assistance as per the revised policy of the PSPCL/Board. The appellant, however, wanted his employment in service which was turned down. The action has been upheld by learned Single Judge.

(3) It may be true that the appellant is not to be blamed for the delay but the fact remains that the very purpose of giving employment is to tide over the situation created due to sudden demise of a Government employee. The appellant who bravely fought the civil litigation and has established his entitlement cannot be said to be still dependent on his deceased father after a gap of 17 years. In these circumstances, the order granting him lumpsum monetary assistance, instead of employment, thus calls for no interference. The appellant shall, however, be entitled to raise his claim for interest on the lumpsum *ex gratia* amount from the due date which the authorities shall determine in accordance with law.

(4) Disposed of.

(Surya Kant)
Judge

15.09.2016
vishal shonkar

(Sudip Ahluwalia)
Judge