

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

CWP No. 19598 of 2010
Date of decision: 01.08.2017

Salinder Kumar

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Maharaj Kumar, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, AAG, Haryana.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks a writ in the nature of mandamus directing the respondents to grant ex gratia employment on compassionate grounds on account of death of his father who died as a government servant on 17.02.1993 while serving as Bull Attendant from CVD, Amritpur Kalan, Office of Deputy Director, ICDP, Karnal.

It is the case of the petitioner that he was minor at the time his father died as he was born on 10.04.1980. The mother had represented that her son will become major in the year 1998 and will become eligible for government service and, therefore, an application had been addressed to the Chief Minister, Haryana for seeking employment in the year 2004. The same had been forwarded to the Chief Secretary on 21.09.2004 (Annexure P-1). Resultantly, reliance was placed upon instructions dated 08.05.1995 (Annexure P-2), which was further modified on 31.08.1995 (Annexure P-3) and the Rules framed thereafter on 28.02.2003 (Annexure P-4) which have

been further amended on 01.08.2006 (Annexure P-6). Reference is made to representation through counsel dated 09.12.2009 (Annexure P-7) and resultantly, the present writ petition has been filed.

The State, in its response, has submitted that as per ex gratia policy dated 22.12.1970, an employee was entitled to 10 times of the last drawn monthly emoluments excluding house rent allowance and to the maximum of Rs.25,000/- in case of such exigencies. The family was paid Rs.17,240/- on 05.11.1993. At the time of the death of the employee, the policy dated 03.11.1988 (Annexure R-1) was in existence. It is stated that the family had to apply within a period of 3 years from the date of death to avail the benefit. Similarly, reference is also made to the policy dated 19.05.1989 (Annexure R-2) and the Government letter dated 27.03.1991 (Annexure R-3) that application has to be filed within a period of 3 years from the date of death of the employee and could not be considered thereafter. It is the case of the State that the petitioner applied only on 16.09.1997 i.e. after 4-1/2 years of the death of his father. Reference is also made to policy dated 08.05.1995 (Annexure P-2) that applications were to be received within a period of 3 years and that the wife of the deceased was getting pension. The Government had already conveyed its decision on 25.06.1999 (Annexure R-4) that the petitioner will not be given employment.

On the last date of hearing, the proceedings were deferred on account of the fact that counsel for the petitioner wanted to verify regarding the fact whether the decision of rejection dated 25.06.1999 (Annexure R-4) had been communicated to the petitioner since counsel for the State, at that point, had handed over a communication by the mother of the petitioner

acknowledging the rejection of the case. Thus, it is apparent that the present writ petition was filed only in the year 2010 for a cause of action which had accrued long back in the year 1999 on account of rejection of the case of the petitioner. The Apex Court has time and again held that compassionate appointment is to be given to tide over the financial crises and is not a source of appointment as such. The Full Bench in ***Krishna Kumari vs. State of Haryana and others, 2012 (3) PLR 383*** has further held that the date of death of an employee is an important factor which is to be taken into consideration. As noticed above, at the time of death, as per the prevalent policies, a sum of Rs.17,240/- was given on 05.11.1993 to the family of the petitioner. Merely because he was a minor at the time of the death of his father, he could not revive the cause of action which his mother had been agitating for and whereby, a rejection order had been passed on 25.06.1999 after he had attained the age of majority. The policy being an exception to a general rule of appointment can only be claimed in accordance with terms of the scheme and where there is inordinate and unexplained delay, direction for compassionate appointment cannot as such be given. Reliance can be placed upon Apex Court judgment in ***Shreejith L. vs. Deputy Director (Education), Kerala and others, 2012 (7) SCC 248***. The writ petition has been filed after a period of 11 years from the date of rejection and after 12 years from the date of attaining the age of majority. Thus, it is also barred by limitation. The whole purpose of the offer of compassionate appointment is for family to tide over the financial difficulties at the time of death of the government employee.

In such circumstances, no directions can be issued either for the appointment or for grant of any additional benefits which came into force at

a subsequent point of time as the case of the petitioner stood already satisfied, as per the prevalent policies.

Accordingly, the present writ petition is dismissed.

01.08.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No