

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.17200 of 2015 (O&M)

Date of Decision: 29.08.2017

Subodh Kumar

--Petitioner

Versus

State of Punjab and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Avinit Avasthi, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

Challenge in the instant petition is to the memo dated 1.4.2014 at Annexure P-7, issued by the Commissioner, Food, Civil Supplies & Consumer Affairs Department, State of Punjab and whereby the claim of the petitioner seeking appointment on a compassionate basis, has been declined.

Brief facts which are not in dispute may be noticed.

Father of the petitioner was serving on the post of Inspector Grade-II under the Food and Civil Supplies Department, State of Punjab. He died in harness on 24.5.2004. An application seeking appointment on compassionate basis was submitted by the petitioner on 29.6.2004. It is such application that has been considered and has not found favour in the light of impugned memo dated 1.4.2014.

Counsel for the parties have been heard.

Perusal of the impugned memo would reveal that the basis for declining the claim of the petitioner for appointment on compassionate basis is two fold. (i) That wife of the deceased i.e. mother of the petitioner is a Govt. employee and (ii) the family of the deceased has other sources of

income.

Appended along with the reply filed on behalf of the State at Annexure R-3 is the relevant policy dated 21.11.2002 containing the scheme for compassionate appointment.

Clause 6 of the scheme governs “*Eligibility*” and clarifies that to be eligible for appointment on compassionate basis the family in question would have to be determined as indigent and in such a state so as to require immediate assistance to be saved from financial destitution. Clause 6 obligates the authority concerned to consider whether the family of the deceased employee is unable to meet the financial crisis resulting from employee's death.

Clause 11 would also be relevant for the controversy in hand and envisages a situation where there is already an earning member in the family of the deceased. Under clause 11 the presence of an earning member cannot be taken as an absolute bar for considering a claim for compassionate appointment and in deserving cases keeping in view the number of dependents assets and liabilities left by the deceased Govt. servant, income of the earning member as also his/her liabilities as also the fact that the earning member is residing with the family of the Govt. servant and whether he/she would not be a source of support for other members of the family have to be kept in view.

In the present case the application seeking compassionate appointment having been filed by the petitioner the same was duly processed. This would be apparent from the documents placed on record by the petitioner himself. At Annexure P-2 is a report from the Deputy Commissioner, Rohtak regarding ownership of any landed property and in

such report it has been recited that the mother of the petitioner has a plot admeasuring 127 sq. yards and upon which a house is constructed. Furthermore, at Annexure P-3 is also a report from the Deputy Commissioner, Rohtak on the subject of issuance of dependency certificate and which reflects that the wife of the deceased employee i.e. mother of the petitioner was a teacher under the State Govt. That apart, even the proforma filled up by the petitioner himself seeking appointment on compassionate basis (Annexure P-1) would reveal that his mother at the relevant point of time i.e. the year of demise of the father of the petitioner was 51 years old. In other words, she still had 7 years of Govt. service prior to attaining the age of superannuation.

In the totality of circumstances, this Court is of the considered view that the competent authority has considered the application of the petitioner for compassionate appointment in accordance with law and in the light of the relevant policy and has rejected the same by giving out valid and cogent reasons.

It is by now well settled that compassionate appointment is not a right. It is a concession and an exception to the normal mode of recruitment and appointment to a post in a service. The objective of grant of compassionate appointment is to mitigate the sudden financial crisis that has fallen upon the family of a Govt. employee, who has died in harness.

In the facts of the present case counsel for the petitioner has not disputed that the mother of the petitioner was a Govt. employee and also owned immovable property i.e. a residential house constructed upon a plot admeasuring 127 sq. yards.

Counsel has not advanced any submission as regards case of the petitioner having not been considered in terms of the relevant policy governing compassionate appointment dated 21.11.2002 (Annexure R-3) along with the written statement.

At this stage, counsel for the petitioner would interject to place reliance upon a judgement of the Division Bench of this Court in ***Laxmi Devi and another Vs. Central Bank of India & others, 2008(2), S.C.T, 319*** to contend that the petitioner and his siblings have faced hardship on account of the demise of their father and as per dictum laid down by the Division Bench, if, the financial position and assets of the family are meager, still, claim for compassionate appointment should have been accepted.

The reliance placed by counsel upon the judgement in ***Laxmi Devi's*** case (supra) is completely misplaced.

Facts of such case were that the deceased employee i.e. Surat Singh Lamba was working as a Gunman in the Central Bank of India. He left behind his widow Laxmi Devi and a minor son. Claim for compassionate appointment raised by the widow was rejected on the ground that Laxmi Devi was earning Rs.974/- per month on account of interest on the amount of Rs.1.68 lacs that had been released towards terminal benefits and a family pension of Rs.2891/- per month was also being drawn. A total income of Rs.3865/- per month had been taken into account by the Central Bank of India to deny compassionate appointment and it was against such factual premise that the Division Bench had intervened.

The facts of the present case are totally distinguishable. The family of the petitioner is not surviving on any terminal/retiral benefits.

Rather on the date of demise of the father of petitioner, his mother was a govt. employee working as a teacher under the Education Department and had 7 long years of service left prior to retirement. Family also owned and was in occupation of a residential house. Family of the petitioner, as such, could not be viewed to be in a state of penury.

In view of the discussion above, no infirmity is found in the impugned memo rejecting the claim of the petitioner for compassionate appointment.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

29.08.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No