

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

CWP No. 25156 of 2016 (O&M)
Date of decision: 19.4.2017

Avinash Chander

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. A.S. Manaise, Advocate,
for the petitioner.

JAISHREE THAKUR, J.

1. The claim in the instant petition is for grant of compassionate appointment under the Government policy dated 21.11.2002.

2. In brief, the facts are that the father of the petitioner, who was working as a Lecturer in Political Science in Government Senior Secondary School, Lamini, Pathankot, died in harness on 6.3.2004, leaving behind his widow, one daughter and two sons. The petitioner was 17 years of age as on the date his father expired. An application seeking compassionate appointment was moved on 12.5.2004. This application was forwarded for consideration to respondent No.3 on 20.10.2004. Since no information was received, the petitioner sent a representation on 2.2.2006 requesting appointment as Clerk on compassionate basis to the office District Education Officer (School), Gurdaspur. Yet another representation was submitted on 6.5.2009 for compassionate appointment. In the meantime, the

petitioner pursued his studies and completed his graduation in Computer Applications and also obtained degree in MBA. Thereafter, the petitioner approached the office of District Education Officer for expeditious consideration of his case and when nothing was done for a long time another representation dated 30.6.2016 was once again submitted seeking appointment on compassionate basis. Thereafter, the petitioner served a registered legal notice but to no avail. Aggrieved against the inaction of the respondents for considering his claim for compassionate appointment, the instant writ petition has been filed.

3. Learned counsel for the petitioner contends that the father of the petitioner died in harness and as per the Punjab government policy dated 21.11.2002, appointment on compassionate ground ought to have been offered to him. It is contended that even though his mother was an earning member, the policy itself allows for compassionate appointment to be offered in deserving cases, which policy has not been adhered to.

4. I have heard learned counsel for the petitioner and am unable to accept the argument that has been raised. No doubt, the Government of Punjab framed a policy dated 21.11.2002 by which a scheme was formulated for offering compassionate appointment to persons who were dependent members of a family of a government employee who died in harness. However, while formulating the policy, it was noted that the object of the compassionate appointment is to ensure the penurious family of the deceased employee does not suffer extreme hardship and to tide over the sudden financial crisis and not to provide employment. In the scheme of compassionate appointment, it was noted that compassionate appointment

cannot be given after lapse of reasonable period.

5. In the instant case, the mother of the petitioner was in government service and was Lecturer at the time of death of the father of the petitioner. There was an earning member in the family and therefore, it could not be said that the family of the deceased government servant was put to financial constraint on the death of the earning member. Moreover, the argument raised that the even if there is an earning member, in deserving cases, compassionate appointment could be offered, is not sustainable in the instant case. A reading of the Policy would show that in cases where there is already an earning member, the Department would assess the assets and liabilities left by the government servant before coming to the conclusion that the appointment should be given to tide over the financial crises that arises, would not be applicable in the present case. It is noted from the pleadings of the petition and the admitted case of the petitioner that he was 17 years of age as on 2004 and thereafter completed his entire education along with obtaining a degree in MBA. In such a situation, it cannot be said that the family of the deceased government employee was facing extreme financial hardship

6. Another fact which is taken note of by this Court to decline interference in the writ petition is that the deceased government employee expired in the year 2004 and the instant writ petition has been filed in December, 2016 that is almost 12 years after the death of the deceased employee. It is not sufficient for the petitioner to contend that he had been approaching the Department for appointment. If the petitioner had been in dire need of financial sustenance, he would have immediately approached

this Court seeking appointment on compassionate ground. It is noted that the petitioner approached the Department in 2004, 2006 and 2009 and then remained silent for substantial period of time till he woke up again in December, 2016. This fact itself is sufficient for the Court to draw a conclusion that the petitioner had adequate means and was not in dire need of financial assistance. There is inordinate delay in filing the instant writ petition, almost a period of 12 years. The reason for approaching this Court is that the petitioner had moved several representations to the Department concerned and it is only when no relief was given to him that the instant writ petition has been filed, is not a ground which is sustainable. It is well settled in law that fence sitter will not be entitled to claim a relief at belated stage. In **In Shankara Co-op Housing Society Ltd. Vs. M. Prabhakar and Ors.** reported in (2011) 5 SCC 607, it has been held as under:-

*“It is now well settled that a person who seeks the intervention of the High Court under Article 226 should give a satisfactory explanation of his failure to assert his claim at an earlier date. The excuse for procrastination should find a place in the petition filed before the Court and the facts relied upon by him should be set out clearly in the body of the petition. **An excuse that he was agitating his claims before authorities by making repeated representations would not be satisfactory explanation for condoning the inordinate delay in approaching the Court.** If a litigant runs after a remedy not provided in the Statute or the statutory rules, it cannot be a satisfactory explanation for condoning the delay in*

approaching the Court.” (emphasis supplied).

7. This Court is of the opinion that a person cannot be allowed to sit on the fence for such a long period. Any relief has to be sought within a reasonable time and at the earliest opportunity. The explanation given by petitioner does not appear to be plausible.

8. Therefore, the writ petition is dismissed on the ground of delay and laches.

19.4.2017
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No