

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

CWP No.23381 of 2017

Date of decision : 11.10.2017

Balwinder Kaur

.....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. R. K. Arora, Advocate for the petitioner.

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DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ/direction for quashing of impugned order dated 07.06.2016 (Annexure P-9) whereby claim of the petitioner for compassionate appointment has been rejected.

Briefly, the facts of the case as made out in the writ petition are that petitioner's father namely Baldev Singh was working as JBT Teacher in Distt. Sangrur. He died on 25.09.1993 while in service. The mother of the petitioner submitted an application dated 18.10.1993 for keeping one post reserved in terms of the Government policy for providing compassionate appointment to the dependent family member of the deceased employee. The marriage of the petitioner was solemnized on 24.07.2003. Subsequently, some differences arose between the petitioner and her

husband and they started residing separately. Thereafter, the marriage between them was dissolved with mutual consent by filing petition under Section 13-B of the Hindu Marriage Act vide judgment and decree dated 14.11.2013. The claim of appointment on compassionate ground was submitted in view of amended instructions dated 26.08.2011, whereby legally divorced daughters of deceased Government employee were also included in the category of dependent family members for the purpose of compassionate appointment. However, the claim of the petitioner was rejected vide order dated 20.02.2016 (Annexure P-8), which is subject matter of challenge in the present petition.

Learned counsel for the petitioner submits that the claim of the petitioner has wrongly been rejected only on the ground that there does not exist any provision for providing employment to the widow daughter, whereas the petitioner is legally divorced daughter of the deceased employee and not a widow daughter. The claim has also been rejected on the ground that death occurred in the year 1993 and the petitioner is not entitled for compassionate appointment. Learned counsel also submits that the petitioner was eligible to apply in view of the amendment in the policy framed by the State Government and, thereafter, cause of action had arisen. Learned counsel submits that order of rejection is not only unlawful and illegal but contrary to the policy and the claim has been rejected without any application of mind. The petitioner has no source of income after getting divorce and she is wholly dependent upon her mother and is also residing

with her, but all these factors have not been taken into consideration.

Heard the arguments of learned counsel for the petitioner and have also perused the impugned rejection order dated 07.06.2016 (Annexure P-9) and other documents on the file.

Facts relating to death of the father of the petitioner on 25.09.1993 and the request made by wife of deceased and mother of the petitioner are not disputed. It is also not disputed that claim of the petitioner has been rejected by passing a detailed speaking order wherein a finding has also been recorded that case of the petitioner does not come in the category of deserving candidate and appointment on compassionate ground is not justified.

It is mentioned that the father of the petitioner died in the year 1993 and that there is no justification to grant compassionate appointment after a long period as purpose of such appointment is to tide over the situation which has occurred due to untimely death of the deceased employee. The purpose of grant of such appointment is not to give employment to the member of the family and the same cannot be claimed as a matter of right. The purpose is to relieve the unexpected immediate hardship and distress caused to the family due to sudden demise of earning member of the family.

In the present case, the father of the petitioner was working as JBT Teacher and he died on 25.09.1993 while in service. It is also mentioned in the impugned order of rejection that the mere fact that the

petitioner is divorcee does not entitle her to be appointed on compassionate basis as at the time of death of the deceased employee, the brother and sister of the petitioner were also there in the family who could apply for compassionate appointment. By not considering the case to be deserving, the claim of the petitioner has been rejected.

It is well settled position of law as has been held by this Court in various judgments as well as Hon'ble the Apex Court that appointment on compassionate ground cannot be claimed as a matter of right. The object of such appointment is to enable the family to tide over the sudden crises and object is to give employment to any dependent family member by considering the financial condition of the family of the deceased but only on being satisfied that the family is not in a position to meet out the crises which has occurred due to sudden death of the earning member of the family. In case the Government employee is sole bread winner then only it is to be considered. When unexplained delay has occurred, it is presumed that the crises is over. It is also a relevant factor which is to be considered that such appointment cannot be granted after a long lapse of unexplained delay as the very purpose of such appointment is an exception to the general rule of open recruitment and same is intended to meet the financial problem being suffered by the members of the family of the deceased employee. Not only on the ground that the petitioner is a widow daughter of the deceased, which has been wrongly mentioned as has been clarified in the impugned order, but by considering other factors also including the fact

that death had occurred in the year 1993, the claim of the petitioner has been rejected. Earlier also claim of the petitioner was not considered and, thereafter, it was again rejected on 28.06.2016.

The same view has been taken in judgments *State of Haryana Vs. Ankur Gupta 2004 (1) SCT 165*, *Umesh Kumar Nagpal Vs. State of Haryana 1994(3) SCT 174*, *Jagdish Prasad Vs. State of Bihar 1996(2) SCT 207 (SC)* and *Haryana State Electricity Board Vs. Naresh Tanwar & Anr. 1996(2) SCT 778*.

The same issue was also taken in judgment of this Court in case *Tarsem Lal Vs. The Chairman, Punjab State Power Corp. Ltd. CWP No.22761 of 2016 decided on 23.08.2017*, as the claim was made after a long delay and factor of delay was considered, by relying upon the judgments of cases *Steel Authority of India Ltd. Vs. Madhusudan Das and others 2008(15) SCC 560*, *Ankur Gupta's case (supra)*, *Umesh Kumar Nagpal's case (supra)*, *State of J & K and others Vs. Sajad Ahmed Mir 2006(3) SCT 598*, *National Hydroelectric Power Corporation Vs. Nanak Chand 2004(4) SCT 724* and *Mrs. Anita Bhatia Vs. State Bank of India and others 2004(6) SLR 259*.

In the present case also, the death has occurred in the year 1993 and petitioner has claimed appointment after a long unexplained delay. Not only there is an inordinate delay in making representation but in approaching the Court also and no satisfactory explanation has come forward. The petitioner remained sitting over her claim for years together and nowhere it has been mentioned as to how the petitioner was dependent

upon the earning of the deceased employee.

Accordingly, there is no merit in the contentions raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

11.10.2017

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No