

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5174-2015

Decided on: 30.08.2017

Rohit Kumar

.... Petitioner

Versus

UHBVN and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Vikas Lochab, Advocate
for the petitioner.

Mr. Pawan Kumar Longia, Advocate,
for the respondents.

AMOL RATTAN SINGH, J (ORAL)

By this petition, the petitioner is seeking compassionate appointment as an Assistant Lines Man or a similar post, on account of the death of his father on 01.02.2002, while serving as an Assistant Lines Man.

Learned counsel for the petitioner submits that the petitioner, being a minor at that stage, could not have applied for the post and therefore applied for the post in the year 2004, upon which a letter was written to him by the Managing Director of the respondent-Corporation on 18.10.2004 (Annexure P-1), informing him that “the facility of employment on compassionate grounds is being provided in order of seniority and as on date, we have given appointment under Class-IV category upto 1.5.1999. Your case relates to the period 1.2.02, and will therefore be decided on its turn in accordance with the seniority.”

Thereafter, the Managing Director again informed him vide a letter dated 22.12.2005, Annexure P-2, that in terms of the Haryana Compassionate Assistance to the Dependents of Deceased Government

Employees Rules 2003, his case for employment was to be finalized within a period of 3 years, either from the date of issuance of the rules, or within 3 years from the date of death of the employee, failing which he would be entitled to financial assistance of Rs.2.5 lacs.

Three years from the date of notification of the rules undoubtedly ran out on 2006 and the petitioners' father already having died on 01.02.2002, obviously a period of 3 years had already elapsed about more than 10 months earlier to the issuance of the letter dated 22.12.2005.

Be that as it may, the petitioner still did not approach this Court, at that time, seeking that he be given compassionate appointment not as per the rules notified in the year 2003, but as per the policy prevalent in the year 2002, i.e. when his father died.

Thereafter, on 12.04.2006, the Managing Director again wrote to the petitioner vide Annexure P-3, that since his case for compassionate appointment had not come up within the 5% quota of sanctioned posts laid down the Rules of 2003, he could opt for financial assistance instead of compassionate appointment, within a period of one month of the expiry of validity of the seniority list, which was valid upto 31.03.2006, as per Rule 6.1(c) of the aforesaid Rules, 2003.

Thereafter, again on 15.03.2007, vide Annexure P-4, effectively the same option was given to him.

Yet again, vide the impugned letter dated 12.04.2012, Annexure P-5, he was told that he could at best get financial assistance of Rs.2.5 lacs.

Thereafter, the present petition has come to be filed on 17.03.2015, seeking compassionate appointment as aforesaid, on account of

death of the petitioners' father in the year 2002.

Upon query as to how the claim can be entertained after such a belated period of 15 years from the death of petitioners' father, learned counsel submits that the petitioner has been constantly agitating the matter before the respondent-authority and they have also been replying to him right since the year 2004, till the year 2012.

Further, he relies upon a judgment of a Full Bench of this Court in **Krishna Kumari vs. State of Haryana and others**, decided on 20.04.2012, a copy of which is annexed as Annexure P-6 with the petition. Specifically, learned counsel has pointed to the following part of the judgment:-

“In view of this clear enunciation of law we cannot but come to the conclusion that rules applicable on the date of death/incapacitation of an employee need to be followed. Needless to observe it is upto the authority to consider the application without inordinate delay and take a decision thereon. In the eventuality application remains pending for considerable period and some other policy comes into operation, no fault can be found on part of the employee. This appears to be the principle recognized by the apex court in its recent judgment in Bhawani Prasad Sonkar's case. As held therein, application for compassionate employment has to be preferred without undue delay and has to be considered within a reasonable period of time as compassionate appointment is to meet the sudden crisis on account of death or invalidation of the bread winner of the family.

We, thus, come to the conclusion that in case an application is made by the dependent belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles accepted by the apex court in its various decisions. In such circumstances, it would be difficult to accept the exception to the general rule of employment as envisaged by Articles 14 and 16 of the Constitution of India. We answer the reference accordingly.”

He again submits that in view of the fact that it would be the rules/policy prevalent on the date of the death of the employee which are to be followed and not subsequent rules, the petitioner cannot be denied compassionate appointment.

Having considered the aforesaid contentions, other than the fact that in the judgment of the Supreme Court in **Umesh Kumar Nagpal vs. State of Haryana (1994) 4 SCC 138**, it has been very clearly laid down, (consistently followed thereafter), that compassionate appointment can only be granted in order to mitigate the immediate hardship faced by an employees' family after his unfortunate death, in the present case, it is seen that the petitioner has been informed right since the year 2005 that he can at best be granted only financial assistance; hence, if he had any grievance qua that stand of the respondents, he should have file an appropriate petition soon thereafter and not in the year 2015.

On query to learned counsel for the respondent-corporation with regard to financial assistance to the petitioner, he submits that as regards the financial assistance of Rs.2.5 lacs, even today the respondents are not denying the petitioner the same, though the claim has already become highly belated.

In view of the above, the petitioner having approached this court more than 13 years after the death of his father, and about 10 years after he was first informed by the respondents that his case for compassionate appointment would be considered under the 2003 Rules only, and not under the policy prevalent on the date of death of his father, in the opinion of this court, the claim is highly belated and cannot be entertained.

However, as regards the financial assistance of Rs. 2.5 lacs, upon the petitioner making an application for release of the said amount to him, it shall be released by the respondents within a period of three months from the date of receipt of the said representation.

It needs to be said that though the claim for financial assistance of ₹2.5 lakhs may also be rather belated, however, since no interest is to be paid upon the said amount, the petitioner specifically not having accepted the amount at that stage, I see no reason to deny him such financial assistance as would have been payable at that stage, without interest even at a later stage.

(AMOL RATTAN SINGH)
JUDGE

30.08.2017

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No