

CWP No.709 of 2017 (O&M)

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

CWP No.709 of 2017 (O&M)

Date of Order: 18.01.2017

Anup Kumar

....Petitioner

Versus

State of Punjab and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. S.S. Kanwal, Advocate
for the petitioner.

JASWANT SINGH, J (ORAL)

The father of the petitioner, who was working as Constable, is stated to have died on 25.2.1995 in harness. The petitioner is stated to be a minor of 10 years at that time.

It is averred that the claim for compassionate appointment of a dependent of the deceased employee was kept pending and in the light of claim having been revived by the petitioner on attaining the eligibility conditions, the same was rejected vide order dated 18.5.2005 (P.2/T) on the ground that the mother of the petitioner was employed as Teacher in Government Primary School.

Learned counsel for the petitioner submits that after the case of the petitioner was rejected on the basis of 2002 Instructions, an amendment was effected in July 2005 whereby such cases could be considered in case of acute hardship. His case was again recommended on 25.8.2008, however, no decision upon the same has been taken so far.

Heard learned counsel for the petitioner and perused

the paper book with his able assistance.

It is not in dispute that the mother-Shushila Devi of the petitioner is working as Teacher in Government Primary School. It is also not disputed that the case of the petitioner has since been rejected by the Director General of Police, Punjab vide order dated 18.5.2005 (P.2/T).

The scope of compassionate appointments are to be read in the light of instructions which govern the subject of compassionate appointments and the case law rendered on the subject by courts of law. Foremost position in law is that compassionate appointments by descent are constitutionally impermissible, as held by Hon'ble Supreme Court in **V. Sivamurthy v. State of A.P (2008) 13 SCC 730**, though death of government servant or medical invalidation serves as an exception to the general rule, as per the scheme of compassionate appointments based on the factum of "sudden crisis" the family is left to face. The law on the subject has been largely explained and laid down by the Supreme Court in numerous rulings including in **Umesh Kumar Nagpal vs. State of Haryana and others (1994) 4 SCC 138** holding that compassionate appointments are not a source of recruitment and benefit can be given only to "see the family through the economic calamity." The "penury" and deprivation of "means of livelihood" tests are to be strictly applied to such appointments, as they are not to be construed as distribution of largesse, as held by Hon'ble Supreme Court in **SBI v. Jaspal Kaur (2007) 9 SCC 571**.

I would, therefore, not entertain this petition and also would not accept the prayer of petitioner that a direction should go by a writ in the nature of mandamus to the State to consider the case of the petitioner in view of recommendation sent on 25.08.2008.

On the materials on record, it would be difficult to hold that the death of father of petitioner has suddenly left his heirs in a lurch and in a precarious and economically vulnerable position, especially when the mother of petitioner was employed as a teacher in government primary school and the death had occurred in the year 1995. Further, in the given circumstances, the subsequent amendment in the instructions effected in July 2005, cannot, also be of any help to the petitioner, as his case already stood rejected in May 2005.

Accordingly, I find no cogent reason to entertain this petition and would dismiss it in limine.

January 18, 2017
manoj

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No