

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

LPA No.678 of 2016 (O&M)

Date of Decision:- 14.02.2017

Gurvail Singh

...Appellant

VERSUS

State of Punjab & Ors.

....Respondents

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Vishal Mittal, Advocate for the appellant.

Mr. Rajesh Bhardwaj, Addl. AG Punjab for the respondents.

SUDIP AHLUWALIA, J.

This Letters Patent Appeal has been filed against the judgment of Ld. Single Judge passed in C.W.P. No. 17389 of 2002 dated 20.1.2016. The Appellant's Writ Petition seeking quashing of the Order dated 28.6.2002 passed by Respondent No.2 for closing his claim for appointment on compassionate ground was dismissed vide the impugned Order.

2. His father was a Driver in the Punjab Roadways, Amritsar- 1, who died on 29.2.1992. A few months later, the Appellant submitted his application for compassionate appointment. His case was put up for consideration on various occasions between 10.6.1994 to 7.6.1999. During that period he also sat in the Test conducted for the post of Steno-typist (Punjabi) on 4.6.1995, but failed to qualify the same. While his application for compassionate appointment in this manner was still pending, he

admittedly went to Sharjah (UAE) in April, 1997 and claims to have worked there as a labourer. He returned back to India three years later in May 2000. During this period, the State had tried to call him a number of times in connection with his pending application but on account of being abroad he was unable to appear or present his Educational Qualification Certificates. Ultimately, the impugned Order dated 28.6.2002 (Annexure P-12) was passed by Respondent No.2 rejecting his application for appointment on compassionate basis as it was found that *'the family of the deceased employee (i.e. his father) has full sources for making both ends meet on the basis of their income.'*

3. In dismissing the Writ Petition, the Ld. Single Judge has relied upon the decision of the Supreme Court in ***'Umesh Kumar Nagpal V. State of Haryana & others' (1994) 4 SCC 138*** wherein it was held that the compassionate employment cannot be granted after a lapse of a reasonable period and that consideration for such employment is not a vested right which can be exercised at any time in future.

4. Admittedly, the Appellant was not available when called by the Authorities in connection with his pending application in the year 1997 when he had gone abroad. Undoubtedly, it cannot be said that the financial crisis which the family had to face at the time of employee's death in 1992 was still continuing ten year later when the appellant's application was finally rejected. Admittedly, he had gone abroad and remained in gainful employment for a period exceeding three years. All the retiral benefits of the deceased appear to have been released in favour of the appellant's mother in the meantime as well. Furthermore, his own inability to appear before the concerned Authorities when he was actually called for to present his

Educational Qualification Certificates for verification in connection with his pending application, certainly does not help his case in any way. We are also in agreement with the observation of Ld. Single Judge that the fact that the appellant had the sources to go to the Middle East in search of employment, would also indicate that the family was not in such a dire financial difficulty, which would have entitled him to seek the benefit of compassionate appointment.

5. We therefore, find no reason to interfere with the decision of the Ld. Single Judge.

6. Dismissed.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

14.02.2017
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***