

CWP-11505-2000 (O&M)

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

**CWP-11505-2000 (O&M)
Date of decision : 15.11.2018**

Mahesh Kumar

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jitendra Sharma, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Deputy A.G., Punjab.

HARSIMRAN SINGH SETHI, J.

The present writ petition has been filed by the petitioner claiming compassionate appointment to a Class-III post.

The facts which have been set out in the petition are that the father of the petitioner, Amar Singh Godara, was serving as a Junior Engineer on regular basis in the Irrigation Department of the Government of Haryana. Unfortunately, Amar Singh Godara, died on 28.10.1985 and he left behind his widow as well as two minor sons. As per the averments made in paragraph 6, the mother of the petitioner wrote to the Department that as her both sons are minor, they should be considered for compassionate appointment as and when they become major. The petitioner, who was born on 20.03.1976, is the elder son and on his behalf, his mother filed an application on 25.05.1994 for the grant of compassionate

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appointment. The said case was forwarded to the competent authority and the competent authority on 10.01.1996 (Annexure P-3) passed an order that the case of the petitioner is not covered under the instructions dated 08.05.1995 for compassionate appointment as the petitioner failed to apply for the same within a period of three years from the date of death of his father. Thereafter, again the petitioner started filing representation and ultimately, filed the present writ petition seeking the compassionate appointment. In paragraph 16, the petitioner has mentioned that there are certain other persons, who were granted compassionate appointment in the year 1995 and 1997, after a period of eleven years and twelve years from the date of death of their father and the petitioner has been discriminated by denying the same benefit on the ground of delay.

In reply to the writ petition, the State of Haryana has reiterated that as per the instructions issued by the Government dated 08.05.1995 and 31.08.1995, the claimants were required to make the claim for compassionate appointment within three years of the death of the persons and as there was no claim made by the petitioner or his mother within the said period, the claim could not be considered. As far as the illustration given by the petitioner in paragraph 16, the same have been replied that in their case, the claim was made within a period of three years from the date of death, which was kept pending and ultimately the compassionate appointment was made and therefore, their cases are different and the petitioner cannot claim parity with them to allege discrimination.

The petitioner filed an replication and along with the same, the petitioner had attached Annexures P-10 and P-11. Annexure P-10 is the application which was made by the mother of the petitioner on 12.02.1986

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requesting the Department that her two minor sons be considered for employment as and when they become major. The said application was also forwarded vide letter dated 27.05.1994 (Annexure P-11) by the Executive Officer to the Superintending Engineer. There is no rejoinder filed by the State to averments made in the replication.

I have heard learned counsel for the parties.

The sole ground to deny the compassionate appointment is that the petitioner failed to apply within three years of the death of his father as required under instructions dated 08.05.1995. Further the State has tried to differentiate the facts in the case of Anup Singh and Sudhir Punia, who were given appointment after a period of 11 years and 13 years, respectively, on the ground that they had applied within the time-frame as prescribed under the policy.

There is no reply to the averment which the petitioner has made in the replication as well as to Annexures P-10 and P-11, which have been attached by the petitioner to contend that in fact, the ground to deny the benefit to the petitioner is factually incorrect. The mother of the petitioner had duly applied within three years of the death of the father of the petitioner for compassionate appointment and requested the Department to wait till the petitioner attain majority. Counsel for the State is unable to support the order in view of the averments which have been made in paragraph 2 of the preliminary objection of the replication as well as Annexures P-10 and P-11. Once the impugned order passed by the respondents is factually incorrect, the same cannot be sustained and hence, the order dated 10.01.1996 (Annexure P-3) is set aside. A direction is given to the respondents to consider the case of the petitioner afresh and pass

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appropriate speaking order on the claim made by the petitioner regarding grant of compassionate appointment.

Let the order be complied with within a period of three months from the date of the receipt of the certified copy of this order.

There will be no order as to costs.

The present writ petition is, accordingly, disposed of.

15.11.2018
Yogesh Sharma

(HARSIMRAN SINGH SETHI)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No