

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

**CWP-19517-2009 (O&M)
Date of decision : 18.09.2018**

Jagdish Kaur

...Petitioner(s)

Versus

Punjab State Electricity Board and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. H.S. Batth, Advocate,
for the petitioner.

Mr. Vikas Chatrath, Advocate,
for the respondent.

JITENDRA CHAUHAN, J.

The petitioner seeks issuance of a direction to the respondents to provide appropriate service to the son of the petitioner on compassionate grounds on account of the death of her husband while on duty and the release the family pension in favour of the petitioner-wife.

Contents that the petitioner's husband, Jasbir Singh, since deceased, joined the respondent-Board as T-Mate on work-charge basis at Sub Division Butari. On 19.06.1985, the husband of the petitioner died due to electrocution while on duty. At the time of the accident, the son of the petitioner was two year old, whereas, the petitioner is an illiterate lady. On 01.12.1999, the petitioner submitted an application (Annexure P-6) with the respondents to give appointment on compassionate grounds to her son-

Kuljit Singh, who attained majority on 02.05.2000. On 25.02.2000, Sr. Executive Engineer, Distribution, Rayya Division, Beas, recommended and forwarded the application of the petitioner to Superintendent Engineer, Distribution, Tarn Taran, for considering the case of the petitioner positively vide Annexure P-8. The son of the petitioner also submitted application with the similar prayer on 23.11.2009 (Annexures P-9 and P-10). However, no action was taken by the respondents on the applications moved by the petitioner and her son. Learned counsel for the petitioner refers to report Annexure P-11, to contend that the deceased husband of the petitioner worked for more than five years, therefore, her claims deserve to be accepted.

On the other hand, learned counsel for the respondent-Board contends that the deceased was appointed in November 1978, and during this period, he worked for four years eight months and two days, therefore, the case of the petitioner is not covered by the policy Annexure R-5. Neither the petitioner, nor her son applied for compassionate appointment immediately after the death of her husband. It is for the first time that she applied on 01.12.1999 (Annexure P-6) after a huge delay. It shows that the petitioner and her son were able to survive for all those years and therefore, do not deserve to be granted any relief. Cites ***Jai Ram Vs. UHBVNL and others, 2005(3) RSJ 313***. He further refers to Annexure R-3, wherein, it has been specifically mentioned that the deceased was a member of the EPF since December, 1978. Furthermore, the document (Annexure P-11) which shows that the deceased had worked with the respondent for 3096 days, is

not corroborated by any other entry and record maintained by the office as also the signatures of the then SDO on the said document do not match with the official records bearing his signatures. It is lastly contended that the instant writ is not maintainable in the present form as the appointment is sought by the petitioner for her son, who has already attained majority.

Heard.

The first ground for rejection of claim of the petitioner is that the deceased had not completed the requisite five years' service as work-charged employee, required to be considered for compassionate appointment in terms of the policy of employment of the dependants of Board's work-charged employees who die while in service under the priority scheme dated 03.03.1980 (Annexure R-4). The relevant extract of the policy reads thus:-

“1. Reference this office memo No.30141/30900/ENG/G-197/LC-674 dated 02.04.1974 vide which the Board adopted the policy of Punjab Govt. in the matter of providing employment to certain categories under the priority scheme.

2. The question of providing such benefits to the dependents of work-charged employees has been under consideration of the Board and it has now been decided by the Board that for the purpose of providing employment under the priority scheme, officials having worked for 5 years in a work-charged capacity shall be considered at par with regular establishment for giving the benefits of employment to the dependents in case such an employee dies in the service of the Board.”

It is the case of the respondents that the the deceased had

worked for 04 years, 08 months and 02 days with the respondent-Board, which period is well short of the minimum requirement of 05 years. However, a perusal of Form -A, fatal accident report dated 05.08.1985 (Annexure P-4), prepared by the Executive Engineer (Distribution) PSEB, Divn. Rayya, Beas, the deceased had worked for 3096 days. In reply to the said assertion which finds mention in para No.5 of the writ petition, relevant extract from reply on merits is as follows:-

“3 to 6 That the contents of Para Nos.3, 4, 5 and 6 are matter of record, however, the submissions made in the preliminary objections are reiterated.”

Thus, there is no rebuttal to Annexure P-4 by the respondents which reflects that the deceased had already worked for 3096 days with the respondent-Board on work-charge basis. Even otherwise, despite availing sufficient opportunities, the respondents have not brought any material on record to conclusively prove that the deceased had not worked with the respondent-Board for five years. The policy of compassionate appointments is a beneficial legislation, therefore, when two views are possible, the view favouring the employee ought to be taken. Accordingly, this Court holds that the deceased had worked for more than five years with the respondent-Board.

The second objection which the respondents have raised is with regard to delay. It is argued that the deceased died on 19.06.1985, whereas, the petitioner, for the first time, approached the Chief Engineer for grant of

compassionate appointment to her son on 01.12.1999 (Annexure P-6). There is no dispute with regard to the said factual position, however, the question of delay has to be dealt with in the light of the facts and circumstances of each case. The petitioner informed the respondents in her application that at the time of death of her husband, her son, namely, Kuljit Singh, was minor (2 years) and she was pregnant with second child. She was advised bed rest by the doctors. Thus, on account of the sudden death of her husband as well as her medical condition, she could not apply immediately. However, the petitioner moved the application when her son, Kuljit Singh, was on the verge of attaining majority. Moreover, the respondents have failed to bring on record any policy/instructions stipulating the time limit for making an application for the grant of relief in question. Therefore, the delay in moving the application shall not operate against the petitioner.

The argument with regard to the fact that once the son of the petitioner had attained majority, he would have asserted his right before the respondents as well as before this Court in person and not through his mother, also appears to be hyper-technical and deserves to be ignored, especially, in view of the relief sought i.e. compassionate appointment, which matters need to be gone into compassionately. Moreover, the son of the petitioner had moved applications dated 23.11.2009 (Annexures P-9 and P-10) seeking compassionate appointment. The Court feels that the son of the petitioner is entitled to be offered job on compassionate basis.

In view of the above discussion, the instant writ petition is

allowed; the son of the petitioner be given appointment on compassionate basis as per the policy existing on the date of death of his father. The respondents are further directed to grant family pension to the petitioner as per Rules/law on the subject.

Allowed.

18.09.2018
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No