

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 29.11.2018****CWP No.460 of 2009 (O&M)**

Arun Kumar

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. S.K.Rana, Advocate, for the petitioner.

Mr. Harish Nain, AAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

The mother of the petitioner was offered appointment on the death of her husband on compassionate grounds, but she did not accept the offer and instead made an application to the department that a job be given to her son, when he attains the age of majority. By the time the son i.e. the petitioner attained the age of majority, the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2003 (for short 'the 2003 Rules') had come into force. The 2003 Rules permitted compassionate appointment or financial assistance, as the case may be.

The claim of the petitioner for ex gratia appointment could not mature due to lack of available vacancies within the quota permitted in the permissible cadres of service till the Haryana Compassionate Assistance to Dependents of Deceased Government Employees Rules, 2006 came into force, which discontinued the practice of offering compassionate appointment and limited the claims to financial assistance in terms of a formula provided in these Rules.

In the meantime, the petitioner approached this Court by way of CWP No.15212 of 2008 for seeking directions to the respondents to offer him appointment as Clerk. The writ petition was disposed of on 28.08.2008 with a direction to respondent No.2 i.e. the Director General of Police, Haryana to take a final decision by passing a speaking order on the representation (Annex P-8) in the light of the decision rendered in Abhishek Kumar Vs. State of Haryana & others, 2007 (2) SCT 457.

The petitioner's father was a Constable, who died on 18.10.1995. He was 12 years old when his father died. He attained the age of majority in the year 2002. The policy at the time of death of petitioner's father was the Ex-gratia Rules, 1995. In the impugned order passed pursuant to the directions of this Court in CWP No.15212 of 2008, it was held by the Director General of Police, Haryana that the claim for ex-gratia benefit i.e. appointment to the son of the deceased employee was submitted well in time, but as per Government instructions prevailing at that time the petitioner could not attain majority status within the period of three years from the death of his father, while claims have to be submitted within three years of the death of the deceased Government employee. On these premises, the request has been rejected against which the petitioner has approached this Court by way of this petition brought under Article 226 of the Constitution of India.

The present petition was filed in 2009. At present, the petitioner is about 35 years of age. He has not stated that he has been diligently looking for a job all these years or what he has made of himself in the interregnum. Long passage of time itself is a valid reason to refuse a direction by way of mandamus to the State to offer appointment. Nothing

has been spelled out in the petition as to the present financial condition of the family or whether it is penurious.

It is well settled that compassionate appointment is only to tide over the extreme exigencies or acute hardship which the family might face on account of the death of the bread-winner and not to help make career as all ex-gratia appointments to public service in whatever capacity are contrary to the policy in Article 16(1) of the Constitution providing for equal opportunity to all available contestants vying for appointment struggling in the job market. Reference may be made to my judgment in CWP No.507 of 2010 titled 'Sunil Kumar Vs. State of Haryana & others' decided on 04.04.2018. I would, therefore, find no infirmity in the impugned order declining the request for compassionate appointment.

However, as far as financial assistance is concerned, the family of the deceased government employee is entitled to monetary relief as applying for son would not waive right receivable under the law. Thus, the respondents and directed to process the claim and pay a sum of ₹2.5 lakhs as financial assistance to the mother as per the 2003 Rules or 2006 Rules, as the case may be, within a period of one month from the date of receipt of certified copy of this order.

However, no interest will be payable on this amount as prayed at the hearing since the offer of financial assistance was declined by the mother of the petitioner, perhaps in the fond hope of securing compassionate appointment for a family member which may then have appeared to be a legitimate expectation.

For the above reasons, no ground for interference is made out in the present writ petition. Relief is not available to the petitioner by way of a

writ of mandamus by reason of long passage of time among others. The writ fails and is dismissed.

29.11.2018
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>No</i>