

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

**CWP No. 11023 of 2017  
Date of decision : 30.08.2018**

**Dharmender**

**....Petitioner**

**versus**

**U.H.B.V.N.L & others**

**..Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ramesh Hooda, Advocate  
for the petitioner.

Mr. Abhishek Singla, Advocate  
for the respondents.

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**RITU BAHRI, J.**

The father of the petitioner was working as Driver in the office of the respondent department and he died on 30.01.2004 while in service and the mother of the petitioner thus applied on 16.02.2004 (P-3) for the appointment of her son namely Ravinder, who was 10+1 class pass at that time. Vide letter dated 09.09.2004, respondent No. 1 demanded certain documents and the same were supplied. Thereafter, the Haryana Government framed new Rules on 01.08.2006 namely 'Haryana Compassionate Assistance to the Dependents of the deceased Government Employees Rules, 2006, vide which it was provided that the family of deceased will be given the financial help only and no employment will be provided. During the above said period, the elder son of mother of the petitioner i.e Ravinder started to reside separately after his marriage and the mother of the petitioner then gave another application on 03.10.2016 that the petitioner be provided employment under the ex gratia scheme. The petitioner was graduate on the

date of application. However, the case of the petitioner was rejected on 17.02.2017 for giving employment on the ground that he cannot be given appointment as there is a total ban on employment in the Rules dated 01.08.2006 and they are only entitled for financial assistance to the tune of Rs.2.5 lacs.

Petitioner is seeking quashing of the above said impugned order dated 07.02.2017 on the ground that the respondents issued the appointment letter to one Chander Prakash, whose father namely late Ram Singh, who died while in service on 23.01.2006, when the old policy was in force. The widow of Ram Singh filed CWP No. 13369 of 2008 and the same was allowed by this Court along with connected writ petition on 22.08.2008. It was directed to the respondents to consider the claim of the petitioners afresh in the light of instructions/Rules applicable at the time of death of the government employee.

On notice, a short reply has been filed on behalf of respondent No. 2 and stated that the case of the petitioner was considered by the competent authority vide office memo dated 15.05.2007, 10.03.2008 and 17.02.2017 (R-1 to R-3) and the mother of the petitioner was intimated that according to new Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees Rules, 2016 notified by the State vide circular dated 03.08.2006 and adopted by UHBVN vide office memo dated 07.09.2006, the petitioner is not eligible for compassionate appointment under the Ex Gratia Scheme but family of the deceased will have an option to opt for lump sum Ex Gratia grant provided in the Rules, in lieu of monthly financial assistance. No para wise reply has been filed by the respondents.

Now the question for consideration before this Court is that

whether the case of the petitioner for employment after the death of the father, has to be dealt in view of the policy prevalent at the time of death or in view of the policy, which was adopted by UHBVN on 07.09.2006.

After hearing learned counsel for the parties, the writ petition deserved to be allowed, as at the time of death of father of the petitioner on 30.01.2004, the ex-gratia policy/Rules 2003-2005 was in existence and the case of the petitioner was required to be considered according to Ex Gratia Policy 2003-2005.

This issue has been considered by this Court in case of ***Sheela Devi vs State of Haryana and others and connected matters, passed in CWP No. 8844-2017, decided on 22.08.2018*** wherein also the respondents denied the claim to the petitioners on the ground that they are not covered under old policy of 2003-05 for appointment on compassionate grounds. The writ petitions were allowed and reference has been made to judgment of various Supreme Court judgments and judgments of this Court. The Division Bench of this Court held as follows:

“We are unable to appreciate and accept the stand taken by the respondents, whereas we find substance in the averments made by the petitioner(s). As noticed above the husband of the petitioner expired on 11.10.2005 and the application for compassionate appointment was moved on 24.10.2005. The said application was to be considered under the then prevalent Rules/Policy/Scheme. Admittedly, the same has not been done in the present case and as such the petitioner has been deprived of the benefit of being considered under the applicable Rules/Policy/Scheme.

In these circumstances, we dispose of these writ petitions and direct the respondents to consider the claim of the petitioner(s) afresh in the light of Instructions/Rules applicable at the time of death of the government employee.”

In another case reported as ***Rambati vs. State of Haryana and others, 2008 (4) P.L.R. 120***, this court while quashing the order rejecting the claim for compassionate appointment, held as follows:-

“The Division Bench of this Court has also recorded a very categorical finding in the cases of the nature under adjudication and recorded specific finding that the policy in operation at the time of death of the deceased would be applicable in deciding the cases for compassionate appointment. The policy of compassionate appointment is a welfare measure of the State and a very liberal interpretation is required to implement these welfare policies. The State should make a very serious endeavour to ameliorate the sufferings of the family which lost its sole bread earner while serving the State. In some of the cases, we have noticed, as it is in the present case as well as that the dependents do not own any assets and are invariably drawn from the poorest strata of the Society and such class of people who come from the lower income segment of the society deserve to be given much better treatment instead of harassing them by raising technical pleas and by citing the niceties of rules which are contradictory to law laid down by Hon'ble the Supreme Court without feeling the pain of the bereaved families. In that context, we are inclined to make a reference of decision in the case of ***Secy., H.S.E.B. v. Suresh, 1993(3) S.C.C. 601***, their lordships held that the Court must decide in the interest of public inspired by principles of justice equity and good conscience. Similarly in the case of ***Steel Authority of India Ltd. v. National Union Waterfront Workers, 2001 (7) S.C.C. 1***, guides us in the context of the interpretation of the statutes that how social welfare legislation should be interpreted. In that contest their Lordships have observed that provisions of such a social legislation providing for economic empowerment to workers and poor classes should be considered in the light of public law principles not of private or common laws. So far as the philosophy behind construing a social legislation is concerned, there are no two opinions, social legislation are primarily meant for welfare of a

particular section of the society and should be construed liberally so as to advance the cause of the public at large.”

In the present case as well, the case of the petitioner should have been considered in view of the old policy of 2003-2005. The father of the petitioner died on 30.01.2004 and her mother gave an application 16.02.2004 for giving appointment to her elder son namely Ravinder but the respondents took no steps on the application filed by the petitioner and in the meantime, Ravinder got married and started to live separately and the mother of the petitioner then gave another application dated 03.10.2016 (P-6) to give appointment to the petitioner.

For all intents and purposes, the petitioner was eligible to get appointment under policy of 2003-2005, despite the fact that the mother of the petitioner earlier gave the name of her elder son Ravinder for appointment.

Applying the ratio of the above mentioned judgment to the facts of the present case, letter dated 17.02.2017 is set aside and the respondents are directed to consider the case of the petitioner for appointment on compassionate grounds, keeping in view the policy dated 28.02.2003. The exercise shall be completed within a period of four weeks from the date of receipt of certified copy of this order.

Despite the fact that there are plethora of judgments to the effect that the case for compassionate appointment has to be considered in view of the policy prevalent at the time of death, the respondents have taken almost 14 years to give appointment to the petitioner. For this lapse, a cost of Rs.50,000/- is imposed upon the respondents, which shall be deposited within a period of two weeks, before the Registrar of this Court and this

amount shall be utilised for constructing the house of Ms. Balwant Kaur (widow) by the respondent-State of Punjab through P.W.D (B&R), Mohali, as per orders passed by this Court on **24.08.2018 in CRM-M-39750-2016 (O&M) titled as Jugraj Singh v. State of Punjab.**

The writ petition is allowed accordingly.

**(RITU BAHRI)**  
**JUDGE**

**30.08.2018**  
G Arora