

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

CWP-18805-2017

Date of decision-02.02.2018

Sidharth Dhawan

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Parminder Jeet Singh Khurana, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of certiorari for quashing the order dated 29.12.2016 whereby the application of the petitioner for compassionate appointment has been rejected.

Learned counsel refers to affidavit dated 04.12.2017 of the petitioner which is taken on record as Annexure P-14 to contend that the petitioner was not major at the time of death of her mother, therefore, he could move application on 15.04.2008 i.e. after attaining the age of majority. The concerned department raised objection regarding the date of birth of the petitioner, therefore, after due rectification the petitioner approached the department for appointment. The case of the petitioner has been rejected by the department on the ground of late submission of application. He further contends that the elder sisters of the petitioner are married.

I have heard learned counsel for the petitioner and have gone through the case file.

The State Government vide letter dated 28.12.2005 (Annexure P-13) (Colly) amended para 13 'a' of the Policy in question which reads as under:-

13 (a) The performa as in Annexure-I may be used by Departments for ascertaining necessary information and processing the cases of compassionate appointment alongwith the documents as given in Annexure-II and submitted to the appointing Authority within a period of one year from the date of death or disability of a person/employee as the case may be. Appointment must be made within a period of 18 months within the Department and 2 years in other departments through Re-deployment Cell. Genuine belated requests with cogent reasons for compassionate appointment can be entertained only within a period of 5 years from the date of death or disability of the employee/person with the special approval of the Department of Personnel.”

As per the amended provisions, appointment must be through re-deployment cell. However, the genuine belated requests on the cogent reasons for compassionate appointment can be entertained only within a period of 05 years from the death or disability as the case may be.

In the instant case, petitioner's mother died on 24.06.1989 and application for grant of appointment on compassionate grounds was moved by the petitioner on 15.04.2008 i.e. after attaining the age of majority and lapse of more than 21 years and 04 months, which is hit by delay and laches.

Hon'ble the apex Court in **Bhawani Prasad Sonkar Vs. Union**

of India, 2011 (4) SCC 209, has held as under:-

“Application for compassionate employment has to be preferred without undue delay and has to be considered within a reasonable period of time as compassionate appointment is to meet the sudden crisis on account of death or invalidation of the bread winner of the family. We, thus, come to the conclusion that in case an application is made by the dependant belatedly or is considered after inordinate delay, basic requirement of meeting the immediate crisis becomes redundant. Since the objective of the policy is to rescue the family from sudden event plunging it into penury, consideration of application after number of years would be beyond the principles accepted by the apex court in its various decisions.”

Further, Hon'ble the apex Court in “Umesh Kumar Nagpal Vs. State of Haryana and others”, 1994 (3) S.C.T.174, has held as under:-

“Whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rationale nexus to the object sought to be achieved viz. relief against destitution. The Supreme Court held:-

6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable to family

to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

7. It is needless to emphasise that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis.”

Thus, in view of the discussion and the case law cited above, this Court does not feel any ground to interfere in the impugned order.

Consequently, present writ petition stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

02.02.2018

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