

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

**CWP-19710-2018 (O&M)
Date of Decision: 30.10.2018**

Krishna & others

... Petitioners

Versus

Union of India & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Kamalpreet Bawa, Advocate for the petitioners.

...

TEJINDER SINGH DHINDSA, J. (ORAL)

Challenge in the instant petition is to the order dated 05.09.2017 passed by the Divisional Manager, The New India Assurance Company Limited (Annexure P-10) and in terms of which a claim for compassionate appointment of petitioner No.2-Shankar S/o late Sh. Krishan Lal has been declined.

Facts that would emerge from the pleadings on record are that Krishan Lal was engaged with the respondent/Assurance Company as a part time Sweeper in the year 1989. He was thereafter adjusted as a full time Sweeper on 15.03.2012. Krishan lal died in harness on 30.04.2014.

Petitioners herein are the widow and two sons of the deceased.

Counsel would argue that on account of death of the sole bread earner on 30.04.2014, the family is facing extreme financial hardship and against the backdrop of Krishan Lal (since deceased) having served the respondent/ Assurance Company since the year 1989 and thereafter on a full time basis since 15.03.2012, petitioner No.2 i.e. the elder son of the deceased ought to have been considered for appointment on compassionate

basis.

Having heard counsel for the petitioners at length and having perused the case paper book, this Court is of the considered view that no intervention in the matter is called for.

Perusal of the impugned order dated 05.09.2017 (Annexure P-10) discloses the basis upon which the claim for compassionate appointment of petitioner No.2 has been declined. It has been recited in the impugned order that the earlier scheme for compassionate appointment stood terminated w.e.f. 01.10.2002 vide circular dated 03.10.2002. Thereafter, the scheme for compassionate appointment was reopened w.e.f. 01.11.2014 vide circular dated 12.11.2014. Unfortunate demise of Krishan Lal concededly took place in the interregnum.

Even though, facts of the present case portray an instance of hardship, yet it cannot be lost sight of that compassionate appointment is not a right and is only a concession. Rather, it is an exception to the normal mode of recruitment.

For the petitioners to agitate the claim for compassionate appointment in favour of petitioner No.2 (Shankar) on account of death of Krishan Lal in harness on 30.04.2014, there would have to be a policy on the strength of which such a prayer could sustain. Counsel does not dispute the factual premise that as on the date of demise of Krishan Lal, no policy relating to compassionate appointment under the respondent/Assurance Company was in vogue.

The prayer in actual terms being raised by counsel is that the scheme for compassionate appointment that had been reopened/revived

w.e.f. 01.11.2014 vide circular dated 12.11.2014 be applied retrospectively so as to cover the date of death of Krishan Lal i.e. 30.04.2014. This Court is not inclined to accept such prayer.

The framing and issuance of policies/schemes for compassionate appointment would lie within the domain of the employer i.e. the respondent/Assurance Company herein. This Court in exercise of its extraordinary writ jurisdiction would not enter into the arena of policy making and to take upon itself the task of determining the date from which a particular policy/scheme is to operate.

It is not even the case made out on behalf of the petitioners that any compassionate appointment has been offered in relation to an employee of the respondent/Assurance Company and who had died in harness between the dates 01.10.2002 and 01.11.2014 i.e. the period when the scheme for compassionate appointment was not available and as such, to plead discrimination.

In view of the discussion above, no interference in the matter is called for.

Petition is dismissed.

30.10.2018*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |