

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

CWP-21947-2017

Date of decision-20.02.2018

Mariyam and another

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

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 13.09.2017 (Annexure P-10) passed by respondent No.4 whereby the application of petitioner No.2 for compassionate appointment has been rejected.

Briefly, the facts of the case, as made out in the present petition, are that husband of petitioner No.1 and father of petitioner No.2 was working as Constable in Punjab Home Guards. At the time of his death on 26.08.2004, petitioner No.2 was aged about 18 years. He passed 10+2 examination in March, 2007, B.A. (General) in June 2012 and B.Ed in year 2015. After acquiring these qualifications, a legal notice dated 05.07.2017 (Annexure P-9) was sent to the respondent/department for appointment on compassionate grounds.

Contents that the impugned order dated 13.09.2017 (Annexure P-10) is illegal, unlawful and has been passed without any specific ground.

Further, he refers to Annexure P-7 to contend that as per Government of Punjab Policy dated 23.12.2016, appointment is to be given on compassionate grounds to the dependents of the deceased who had died during last 10 years against vacant posts.

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

In the instant case, father of petitioner No.2 died on 26.08.2004 and application for grant of appointment on compassionate grounds was moved by the petitioners on 05.07.2017 i.e. after the lapse of more than 13 years which is hit by delay and laches. The claim has been made on the basis of policy dated 23.12.2016 (Annexure P-7) but no reasonable explanation for condonation of delay come forth. The claim of the petitioners has been rejected on the ground that when father of petitioner No.2 had died he was not on duty and he died due to his illness. Further, as per Government of Punjab Policy dated 23.12.2016 (Annexure P-7), those guards who died after the year 2007 one member of their family would be entitled to enroll as a volunteer on a compassionate grounds whereas father of petitioner No.2 died on 26.08.2004. The application made by the petitioner for appointment was belated and filed much after the petitioner No.2 attained majority.

In a judgment of Division Bench of this Court in “***Mrs. Anita Bhatia vs State Bank of India and others***” 2004(6) SLR 259, it has been observed that delayed claims on compassionate appointment are not to be entertained as its object is only to get the family tide over the financial crises at the time of death of its sole bread winner. It has also been observed that a

family which was able to manage for a long time, cannot be said to be in such grievous poverty which deserve compassionate appointment.

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.”

A similar view has been taken by a Division Bench of this Court in judgment dated 21.11.2013 titled as “Satish Kumar Vs. State of Haryana and others” passed in CWP-15967-2003 decided on 21.11.2013. Para Nos.5 and 6 of the judgment reads as under:-

“[5] Having heard learned counsel for the parties and after going through their contents, we do not find that the Rules under challenge suffer from any legal infirmity. Since the very object of exgratia Scheme is to provide adequate means to the brewed family whose source of livelihood is suddenly taken away, the period of three years to consider one of the dependent family member for appointment on compassionate ground is fair and reasonable. It may be true that the petitioner was only one year old at the time when he lost his father but the fact remains that after 20 years or so it can not be said that the petitioner is still dependent on the salary which was being drawn by his deceased father. No fault, thus, can be found with the decision taken by the respondents.

[6]. Mr. Baldev Singh, learned Additional Advocate General, Haryana informs that as of now, 2003 ex-gratia policy/Rules have been substituted/modified by the new set of policy. Suffice it would be to observe that if under the new policy and/or any other previous policy, if the petitioner or his mother are entitled to any financial assistance, the respondents shall consider their claim for the same and pass an appropriate order, in accordance with law, within a period of four months from the date a certified copy of this order is received.”

Thus, in view of the discussion and the case law cited above, this Court is not inclined to interfere in the impugned order.

Consequently, the present writ petition stands dismissed.

(JITENDRA CHAUHAN)
JUDGE

20.02.2018

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