

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-2238-2017 (O&M)
Date of decision: 26.09.2018

Rohit Kumar

.... Appellant

versus

Uttar Haryana Bijli Vitran Nigam Ltd. & ors.

.... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. V.D.Sharma, Advocate
for the appellant.

Mr. Deepak Balyan, Advocate
for the respondents.

Mahesh Grover, J.(Oral)

This appeal is directed against the judgment dated 30.08.2017 passed by learned Single Judge vide which the writ petition has been dismissed.

The appellant made a claim for compassionate appointment on account of the death of his father, which took place on 01.02.2002. The respondents considered his case under Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules 2003 and while doing so, advised the appellant to furnish his consent for cash/financial assistance and submit the documents.

The appellant apparently declined this offer but insisted on compassionate appointment for which the respondents placed him as per the seniority list intended for such cases.

It is not in dispute that the name of the appellant remained in

the seniority list as long as for a period of three years but the list as such could not be exhausted.

In the meantime, 2006 Rules came into existence on 01.08.2006 and the appellant's case was considered and granted financial assistance of an amount of ₹ 2.5 lakhs.

The appellant now contends that since the consideration was granted under 2006 Rules, he may be granted an amount of ₹ 5 lakhs considering that his case remained pending.

Learned Single Judge did not accept this plea and discarded the claim for appointment by relying upon the judgment of Hon'ble Supreme Court in *Umesh Kumar Nagpal vs. State of Haryana (1994) 4 SCC 138* to hold that since the death took place more than 10 years ago, compassionate appointment was not a feasible course to be adopted and upheld the order of respondents granting the financial assistance of ₹ 2.5 lakhs.

Before us, learned counsel for the appellant contends that since the consideration was granted under 2006 Rules he would be entitled to an amount of ₹ 5 lakhs in terms thereof whereas the respondents contends that once the consideration had been granted under 2003 Rules where the appellant himself chose not to accept financial assistance and the case could not be construed to be one, pending consideration and hence, the appellant cannot derive any benefit from 2006 Rules.

We have heard learned counsel for the parties.

The impugned order, however, shows the consideration to the appellant under 2006 Rules. Evidently it has been done erroneously as the facts on record speaks to contrary. Consideration was granted to the appellant as per the 2003 Rules with an offer of financial assistance, which

at that point of time was limited to ₹ 2.5 lakhs. The appellant refused this amount as he took his chance of availing compassionate appointment, which did not fructify even after lapse of three years during which interregnum 2006 Rules came into being. This ipso facto could not imply that the appellant's case now be considered as per the latest rules of 2006 for simple reason of being accorded consideration in 2005 as per the prevailing rules of 2003.

With these observations, this appeal is disposed of.

(MAHESH GROVER)
JUDGE

26.09.2018
sonia

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/non-speaking? Yes/No

Whether reportable? Yes/No