

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No. 325 of 2017 (O&M)

Date of Decision: 03.07.2018

Gaurav son of late Subhash Chander

.....Appellant

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Pardeep Sehrawat, Advocate, for the appellant.

KRISHNA MURARI, C.J.(oral)

This intra-court appeal under Clause X of the Letters Patent has been filed by the appellant-petitioner challenging the order passed by the learned Single Judge dated 22.11.2016. Facts relevant for the purposes of this case are as under:-

2. Father of the petitioner, who was working as Conductor in Haryana Roadways, Chandigarh Depot, died on 11.06.2005 in harness. Admittedly, at that point of time, the appellant was minor. An application was made by the mother of the petitioner to provide a suitable job to him on compassionate grounds after he attains the majority. Another application dated 19.07.2005 was again made by her mother. The respondents in reply informed vide letter dated 17.11.2005 that since her son has not attained the age of majority, hence she could exercise the option for employment for herself or for her daughters or in the alternative

she can opt for ₹ 2.5 lacs as compassionate assistance. The mother of the petitioner was subsequently informed vide letter dated 09.01.2006 that her son can be given employment on a class-IV post and she was required to produce the relevant documents at the earliest. Consent was given by her for appointment on a class-IV post but due to non-availability of the post under the quota, the case of the petitioner could not be considered. Again vide letter dated 10.03.2008, the mother of the petitioner was required to give her consent for compassionate assistance of ₹ 2.5 lacs inasmuch as 5% quota of the sanctioned posts were already filled up by compassionate appointments and therefore, there was no vacancy available. However, she did not respond to the same. On attaining majority on 13.04.2008, the petitioner himself made an application seeking compassionate appointment. When no decision was taken on the application made by him, he approached this Court by filing a writ petition.

3. The petition was contested by the respondents by filing written statement pleading *inter-alia* that the petitioner did not fulfill the eligibility condition of age to get employment in the government sector when the representation dated 19.07.2005 was made by his mother. It was further stated that 5% quota of the sanctioned posts for the purposes of compassionate appointments had already been filled by them and thus the mother of the petitioner was asked to give her alternative option for financial assistance to the tune of ₹ 2.5 lacs but she neither gave her consent nor turned up in the office of the answering respondents to receive the said amount. It was admitted in the written statement that the application made by the mother of the petitioner dated 25.06.2007

claiming benefits and allowances in terms of the new scheme of 2006 was declined on the ground that the dependents of the deceased employee are already getting family pension, as such, she is not entitled for any benefits under the Rules of 2006 and the governing policy in the case of the petitioner was the Rules of 2003 which conferred right to receive ₹ 2.5 lacs but the same was not accepted by her.

4. Learned Single Judge after noticing the pleadings of the parties and the fact that the Haryana Government repealed its earlier policy on compassionate appointments/financial assistance by bringing a fresh policy in the name of “The Haryana Compassionate Assistance to the Dependents of the Deceased Government Employees’ Rules, 2006”, w.e.f. 01.08.2006 which did away with compassionate appointments by restricting itself to a more beneficial financial assistance scheme as prescribed in the new Rules, rejected the claim of the petitioner for grant of compassionate appointment merely on the ground that the petitioner is at present 26 years of age and the petition is pending since 2008 and no material has been placed on record with respect to the status of the family or that it is still continuing to live in penury. While rejecting the claim of compassionate appointment, learned Single Judge has also taken into account the fact that the mother of the petitioner did not accept the financial assistance of Rs.2.5 lacs offered by the respondents and thus it could be a case where the family was not in any financial crisis or facing acute hardship.

5. Even though the claim of compassionate appointment has been rejected by the learned Single Judge but the claim of the petitioner for financial assistance in terms of Rules-2006 by treating his case for

financial assistance as “pending case”, a direction has been issued that in case the petitioner approaches the respondents with a request, the same shall be processed within three months and the Department would consider offering the mother of the petitioner financial assistance in accordance with the said Rules.

6. Admittedly, the petitioner was minor at the time of death of his father and subsequently since there was no available vacancy, an offer was made to grant financial assistance under 2003 Rules, which was not accepted by his mother. On account of change in the policy thereafter by implementing Rules-2006, the right to be considered for compassionate appointment was not available. Even if the rule or the scheme prevalent at the time of death of the employee is to be applied for grant of compassionate appointment in view of the full Bench judgment of this Court in ***Krishna Kumari v. State of Haryana 2012(2) SCT, 736*** but granting a compassionate appointment under the said rules after about 13 years of the death of the father of the petitioner would defeat the laudable object of granting compassionate appointment as held by the Full Bench itself. Thus we do not find any fault with the judgment of the learned Single Judge in rejecting the claim of compassionate appointment.

7. Further by directing to treat the case of the petitioner as a ‘pending case’ under 2006 Rules and to consider his claim for providing financial assistance under 2006 Rules, we think the learned Single Judge has done substantial justice between the parties. In the light of the directions issued by the learned Single Judge, it is always open to the appellant-

petitioner to approach the authorities to move an appropriate application and there is no reason to doubt that in case such an application is made, the respondents shall proceed to process the same in accordance with law and Rules-2006, as directed by the learned Single Judge.

8. In view of the above facts and discussion, we find no reason to interfere with the judgment of the learned Single Judge. The appeal accordingly fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.07.2018
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Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No