

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

LPA No. 581 of 2018 (O&M)

Date of Decision: 18.09.2018

Surender Kumar

.....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. Ashwani Verma, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE (oral)

CM No. 1567-LPA of 2018

Heard. For the reasons mentioned in the application, delay of 18 days in refiling the appeal is condoned. Application stands disposed of.

LPA No. 581 of 2018

This intra court appeal under Clause X of the Letters Patent is directed against the judgment and order of the learned Single Judge dated 13.11.2017 dismissing the writ petition filed by the appellant seeking a mandamus to command the respondents to consider and give compassionate appointment to him.

2. The predecessor-in-interest of the petitioner, namely, his father joined the services of the respondents as a Lineman in the year 1971. He expired on 19.09.2003. In view of the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, an application was made by the appellant herein seeking compassionate appointment. However since the Rules contain a stipulation in Rule 9 that the appointments would only be made up to a maximum 5% of the

sanctioned posts falling under the direct recruitment quota, the case of the appellant was not liable to be considered for compassionate appointment and according to the Rules he was offered ex-gratia financial assistance to the tune of Rs.2.5 lacs. After making various representations, the appellant filed writ petition which has been dismissed. Admittedly, the appellant could not be granted compassionate appointment in view of the statutory provisions contained in the Rules that such appointment could not be made on more than 5% of the sanctioned strength and therefore, a sum of Rs.2.5 lacs was offered as ex-gratia financial assistance.

3. Learned Single Judge dismissed the claim for compassionate appointment and instead held the petitioner-appellant to be entitled for a sum of Rs.2.5 lacs as ex-gratia financial assistance.

4. We do not find any illegality in the view taken by the learned Single Judge inasmuch as the claim for compassionate appointment was not liable to be considered after 14 years of the death of the predecessor in interest of the appellant. The issue stands settled by catena of decisions of the Hon'ble Apex Court that compassionate appointment is an exception to the general rule of appointment and is not independent source of recruitment and is not liable to be considered at a belated stage after the death inasmuch as the purpose is to provide financial assistance to the bereaved family on account of sudden demise of the bread earner. A reference may be made to the decisions of the Hon'ble Apex Court in ***Umesh Kumar Nagpal vs. State of Haryana 1994(4) SCC 138***, ***Shreejith L. vs. Deputy Director (Education) Kerala and others (2012) 7 SCC 248*** and ***Union of India and others vs. Sima Banerjee 2017(1) RSJ 351***.

5. In view of the above facts and discussion, we do not find any illegality in the view taken by the learned Single Judge. The appeal accordingly fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

18.09.2018
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Whether speaking/reasoned	√Yes/No
Whether reportable	Yes/No√