

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

Letters Patent Appeal No. 584 of 2018 (O&M)

Date of Decision: 18.09.2018

Rajbala and another

.....Appellants

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. Surender Pal, Advocate, for the appellants.

KRISHNA MURARI, CHIEF JUSTICE (oral)

This intra-court appeal filed under clause X of the Letters Patent is directed against the judgment and order dated 16.11.2017 passed by the learned Single Judge dismissing the writ petition filed by the appellants seeking quashing of the order dated 29.07.2015 passed by respondent No.4 General Manager, Haryana Roadways, Kaithal, rejecting their claim for appointment on compassionate grounds.

2. Facts relevant for the purposes of the case in brief can be summarized as under:-

Husband of petitioner No.1 was appointed as driver on contract basis on 02.09.1993. His services came to be regularized on 02.09.1995 but unfortunately he expired on 30.07.1996. An application was made for compassionate appointment as per the policies dated 08.05.1995 and 31.08.1995 prevalent at the time of death. However, before application could be processed and brought to its logical end, new Rules of 2003 were introduced which provided that all the existing instructions issued from time

to time regarding providing of financial assistance and appointments under the ex-gratia scheme stand repealed. The new rules contained a stipulation under Rule 3(b) to provide compassionate financial assistance to the tune of ₹ 2.5 lacs and under Rule 4 an option was to be given by the dependent of deceased employee in this regard. Rule 6 provided the Head of the Department to maintain a list of applicants seeking compassionate appointments in accordance with the seniority which was to be valid for a period of three years. The name of petitioner No.1 on exercise of her choice, to be given compassionate appointment, was included in the seniority list and was placed at Senior No. 59. Since there was a restriction under Rule 9 for making appointment on compassionate grounds only to the extent of 5% of the sanctioned posts, the name of the petitioner could not come into the zone of consideration and she was given an option for accepting a sum of Rs.2.5 lacs as ex-gratia financial assistance which was refused by her vide communication dated 18.02.2013 and a claim was made to award a sum of Rs.5 lacs. The rejection of her claim led to the filing of the writ petition.

3. 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***.

3. In the case in hand, the appointment on compassionate ground is being sought after about 21 years and the claim is not liable to be considered at such a belated stage. Thus we do not find any illegality in the view taken by the learned Single Judge in rejecting the claim of the appellant for compassionate appointment. Needless to observe that the learned Single Judge has already issued a direction to the respondents to process the case of the appellant for payment of a sum of Rs.2.5 lacs within a period of two months as ex-gratia to which she is entitled under the new Rules.

Accordingly, the appeal fails and stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

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