

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

Letters Patent Appeal No.415 of 2019 (O&M)

Date of Decision: 22.02.2019

Naresh 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 : Dr. Deepak Jindal, Advocate, for the appellant.

KRISHNA MURARI, CHIEF JUSTICE

CM No. 952-LPA of 2019

Heard. For the reasons mentioned in the application, delay of 29 days in re-filing the appeal is condoned. Application stands disposed of.

LPA No. 415 of 2019 (O&M)

This intra-court appeal under Clause X of the Letters Patent is directed against the judgment and order dated 01.11.2018 passed by the learned Single Judge dismissing the writ petition filed by the appellant.

2. Petitioner-appellant approached this Court under Article 226 of the Constitution of India seeking a writ of certiorari to quash the order dated 14.09.2017 passed by respondent No.2-Transport Commissioner, Haryana, rejecting the representation made by him for appointment on compassionate ground in compliance with the policy dated 31.08.1995. A writ of mandamus was also claimed to command the respondents to give him appointment on compassionate ground on the post of Clerk.

3. Relevant facts required to be noticed for adjudication of the controversy are as under:-

Father of the petitioner who was working as driver in the Transport Department, Karnal Depot, was pre-maturely retired from service on 05.12.1997. The appellant-petitioner filed a Civil Writ Petition No. 7815 of 2006 challenging the order dated 16.02.2006 passed by respondent No.2 rejecting the claim of compassionate appointment which was disposed of by a Division Bench vide order dated 09.01.2007 directing the respondents to consider the case in terms of the policy and to give him suitable appointment as per his entitlement. The order was challenged by the State of Haryana before the Hon'ble Apex Court in (SLP (C) No. 8319 of 2007 converted into Civil Appeal No. 2511 of 2007 and the same was disposed of vide judgment and order dated 14.05.2007 directing that the last part of the order of the High Court whereby a direction was issued to give appointment as per entitlement be deleted and the respondents to decide the application for appointment on compassionate ground. In compliance of the aforesaid order of the Hon'ble Apex Court, the claim of the appellant-petitioner was considered by the respondents and having found that after receiving the application for grant of appointment according to the policy dated 31.08.1995, the name was entered in the waiting list prepared by the Head Office from the date of retirement of the father of the appellant. His claim was entered at Sr. No. 108 and he was to be given appointment as per the list and availability of post. However, subsequently w.e.f. 28.02.2003 a new policy was enforced where under the grant of appointment to the dependents of the employees who retired on medical grounds was abolished. The rule also contains a stipulation that all the pending cases shall be considered in the light of the new rules and accordingly the claim was rejected and it was further directed that retrenchment compensation to Krishan Lal father of the appellant, if not already paid, be given to him immediately.

4. Undisputedly, the name of the appellant-petitioner was included in the waiting list prepared for giving appointments on compassionate ground to the dependents of the employees retiring on medical grounds but before any vacancy could be available on which he could be appointed, new Rules were enforced where under such a provision did not exist. Accordingly, the retrenchment compensation was directed to be paid to his father as ex-gratia. We find no illegality committed by the authorities in rejecting the claim in the facts and circumstances noted hereinabove.

5. There is another aspect of the matter which has been noticed by the learned Single Judge that the date of birth of the appellant-petitioner is 16.08.1974 and when the writ petition was being considered he was of 44 years of age. His father retired on medical grounds 22 years back in 1997 and thus also there was no justification to grant compassionate appointment after such a long lapse of time when the respondent-petitioner had attained the age of 44 years.

6. In view of above, no illegality is reflected from the impugned order of the learned Single Judge which may require any interference by us. The appeal accordingly fails and stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

22.02.2019
ravinder

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