

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

**Civil Writ Petition No. 1419 of 2016(O&M)
Date of Decision : 27.08.2019**

Avtar Singh

... Petitioner

versus

Punjab State Civil Supplies Corporation Limited & Ors.

... Respondents

CORAM:-HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Rajesh K. Dadwal, Advocate
for the petitioner.

Mr. Anil Kumar Sharma, Advocate
for respondents No.1 and 2.

Ms. Ambika Bedi, AAG Punjab.

ARUN MONGA, J

1. Claim of the petitioner herein, *inter alia*, is to issue an appropriate writ commanding the respondents to consider his case for appointment on compassionate grounds, owing to the death of his father in harness. Petitioner's father died on 29.01.2007 while serving in the Punjab State Civil Supplies Corporation(for brevity, Corporation). The deceased was the only earning member and was survived by three daughters and two sons, including the petitioner.

2. The petitioner is elder of the two sons and younger one is stated to be physically handicapped person and is wheel chair bound. The petitioner submitted an application seeking appointment on compassionate grounds, pursuant whereto dependency report of the Deputy Commissioner of the district was sought.

3. Eventually, vide order dated 23.04.2012(Annexure P-7) request of the petitioner for compassionate appointment was rejected, *inter alia*, relying on Deputy Commissioner's report, on the ground that he was working as Driver and was not dependent on his deceased father. Hence, the writ petition.

4. In the short reply filed to the writ petition, preliminary objection has been taken that neither quashing of order dated 23.04.2012, vide which the request for appointment on compassionate ground was rejected, has been sought in the writ petition nor otherwise, there is any explanation for delay in filing the writ petition and as such the same is, therefore, liable to be dismissed.

5. Having heard learned counsel for the parties and upon perusal of the pleadings and record appended thereto, I am of the view that objections raised by the respondent Corporation deserve to be sustained. Even otherwise, on merits, the writ petition is devoid of any substance and is liable to be dismissed.

6. It is a settled position in law that compassionate appointment is in the nature of ameliorating relief granted to the family of the employee who dies in harness. Intent and purpose is to tide over the immediate financial hardship so as to save the family from living in penury. Such a ameliorating relief cannot be construed as a vested right and/ or in the nature of reservation in appointment of jobs against alternative method to by-pass appointments on merits.

7. The very fact that the petitioner's request for compassionate appointment was rejected way back in 2012 and yet, he chose to sit over it and filed the instant writ petition in December, 2015, reflects that there was/

is no such immediate financial crisis so as to entitle the petitioner to seek compassionate appointment. In any case, compassionate appointment cannot be granted after a lapse of such a long period as it is not a right of reservation which can be exercised any time in future.

8. Furthermore, a perusal of instructions dated 21.11.2002 (Annexure R-1) issued by the Department of Personnel, Government of Punjab, applicable to the respondent Corporation, reflects that case of the petitioner is not covered under the said instructions. The letter and spirit of the said instructions envisage that a dependent family member is the one who is wholly dependent on the deceased employee at the time of his death in harness. As against this, a perusal of family members certificate dated 24.04.2007 (Annexure P-5) shows that petitioner, at that time, was married and 29 years old and was serving as a driver. Report dated 20.09.2007 of Deputy Commissioner was also never challenged by the petitioner, which clearly states that he was working as a Driver and was not dependent on his deceased father. The other two sisters aged 32 years and 30 years at the time of issuance of certificate were married. In the premise, it is difficult to believe that petitioner, being married and currently 41 years old, was/ is dependent on his deceased father.

9. As regards his younger brother, being handicapped, neither has he come forward nor there is anything on record to show that he deserves the benefit of compassionate appointment being dependent on his deceased father.

10. Seen from any angle, writ petition is devoid of any merit and the same is hereby dismissed on merits as well as on delay.

11. No order as to costs.

12. In parting, I may hasten to say that if the younger son of the petitioner is indeed handicapped and was dependent on his deceased father, and/ or the unmarried daughter of the deceased, they shall be at liberty to seek benefit of the policy of compassionate appointment and dismissal of present writ petition shall not come in their way of seeking the benefit under the applicable policy.

27.08.2019
Jiten

(ARUN MONGA)
JUDGE

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| 1. | Whether speaking/ reasoned: | Yes/ No |
| 2. | Whether reportable: | Yes/ No |