

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

CWP No.24656 of 2014 (O&M).

Date of Decision: 10.07.2019

Gurdev Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. A.S Manaise, Advocate,
for the petitioner.

Ms. Sunint Kaur, AAG Punjab.

JITENDRA CHAUHAN J.

Through the instant civil writ petition, the petitioner has sought quashing of order dated 25.02.2014 (Annexure P-7) passed by respondent No.1 and order dated 19.06.2014 (Annexure P-8) passed by respondent No.2 vide which the approval to relax the upper age limit and condone the delay in application of the petitioner for compassionate appointment was declined.

It is contended that late father of petitioner HC Harjit Singh served in Punjab Police department till 23.03.2012 when he died in harness leaving behind his widow, Gurdish Kaur and five children including the petitioner/son. The family was totally dependent upon the deceased and there was no other source of income. The mother of petitioner, Gurdish Kaur moved an application dated 23.04.2012 (Annexure P-2) to respondent No.3 requesting for appointment of the

petitioner as Constable in Punjab Police department on compassionate basis as per the Policy of the Punjab Government. At that time, the petitioner was matriculate, therefore, a prayer was made to reserve one post of Constable for the petitioner until he passes 10+2. The petitioner passed 10+2 class with high score in 2013 and thereafter he appeared before respondent No.3 to pursue his case for appointment as Constable on compassionate basis. The case was processed and ultimately sent to respondent No.2 for according relaxation in age by 7 years, 3 months and 21 days however, the claim of the petitioner was declined vide impugned order dated 25.02.2014 (Annexure P-7). Thereafter the petitioner approached the office of respondent No.3 in the first week of April, 2014 with a request to reconsider his case as similarly situated persons had been given appointment as Constable on compassionate basis by granting them age relaxation however, vide order dated 19.06.2014 (Annexure P-8), it was intimated that the case of the petitioner had been declined.

It is further contended that the date of birth of the petitioner is 01.05.1981 and he has passed 10+2 and belongs to general category. His height is 5'-7'' and he is fit and healthy to perform the duties of a Constable. There was no delay on his part to apply for the post of Constable on compassionate grounds. The father of the petitioner died on 23.03.2012 and in the next month, petitioner's mother moved an application (Annexure P-2) for appointment of the petitioner. It is further contended that one Kulsher Singh and

Gurwinder Singh were appointed as Constables after giving age relaxation of more than 7 years. It is asserted that the case of the petitioner is identical to that of named two Constables.

On behalf of the respondents, it is contended that when the case of the petitioner was processed, a communication was sent to mother of the petitioner vide office letter dated 19.02.2013 (Annexure R-4) that the petitioner is a Matriculate so, his case can be considered for appointment on Class 4th post. Thereafter, the mother of the petitioner appeared before DGP, Punjab Chandigarh on 30.08.2013 and moved an application stating that the petitioner who had passed 10+2 may be considered for appointment to the post of Constable. The case was again processed however, the Government of Punjab vide letter dated 25.02.2014 (Annexure P-7) considered and declined the case with the remarks that the case was not covered under the instructions issued vide letter dated 21.11.2002 (Annexure R-6).

I have heard the learned counsel for the parties and have gone through the case file.

It is an admitted position that the father of the petitioner had died in harness on 23.03.2012. He had left behind widow Gurdish Kaur and five children. The application for compassionate appointment was moved immediately after the death of late Harjit Singh. At that time, the petitioner was matriculate, therefore, a request (Annexure P-3) was made to reserve one post of Constable for him. In the year 2013, the petitioner had passed 10+2 with good marks vide DMC

Annexure P-4). Thereafter, he appeared before respondent No.3 to pursue his case for appointment as Constable. His case was processed and an offer for appointing him on class IV post was made however, the same was not acceptable to the petitioner at that time. Later on, the case of the petitioner was processed for appointment on the post of Constable. Vide order dated 25.02.2014 the claim of the petitioner was declined.

Further in Umesh Kumar Nagpal v. State of Haryana, 1994 (3) SCT 174, it was observed by Hon'ble the Supreme Court as under: -

"As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interest of justice and to meet certain contingencies. One such exception is in favour of the dependents of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependents of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, mere death of an employee in harness does not entitle his family to such source of livelihood."

The similar issue has been dealt by this court in the case
titled as "Rajinder Kumar vs state of punjab and others"

2017(1)S.C.T 305. The relevant paragraphs are reproduced as under:-

“11. It is also settled proposition of law that the appointment on compassionate grounds is not to be claimed as a matter of right. It cannot be granted to replace the deceased employee with one of the dependents. The aim and object of granting appointment on compassionate grounds is to help the family at the time of sudden demise of the sole bread winner of the family.

12. In the present case, the financial condition has not been discussed to show that there was sufficient income of the family. The claim of the petitioner has been rejected only on the ground that the petitioner was over age at the time of making application. There is a specific provision of relaxation of age upto the period of five years in case of SC/BC and Widow. The petitioner belongs to SC category and the clause of relaxation of age is applicable but the same has not been considered and the claim of the petitioner has been rejected on two occasions.

13. Accordingly, by considering the submissions made by learned counsel for the petitioner and the provisions of the policy, the present writ petition is allowed and impugned orders of rejection dated 10.07.2014 and 17.03.2015 are hereby quashed. The respondents are directed to re-consider the case of the petitioner afresh by taking into consideration the clause of relaxation of age as well as financial condition of the family. The necessary exercise be done within a period of two months from the date of receipt of certified copy of this order.”

At this stage, learned counsel for the petitioner submits that
the petitioner is ready and willing to accept appointment on class IV
post.

Considering the fact that at one point of time vide
communication (Annexure R-4), the respondents were willing to offer

class IV post to the petitioner coupled with the fact that the financial position of the petitioner has not improved so far, this Court is of the opinion that the offer deserves to be revived.

In view of above, the present civil writ petition is allowed.

The respondents are directed to offer appointment letter to the petitioner for class IV post. However, there shall be no notional benefit. The necessary exercise be completed within two months from the date of receipt of certified copy of the judgment.

10.07.2019.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No