

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

**CWP-25129-2014 (O&M)
Date of decision : 08.11.2019**

Manpreet Kaur

...Petitioner(s)

Versus

The State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sushil Bhardwaj, Advocate,
for the petitioner.

Ms. Anju Arora, Addl.A.G., Punjab.

JITENDRA CHAUHAN, J.

The petitioner seeks quashing of letter dated 03.08.2011 (Annexure P-9), whereby, her claim for grant of *ex gratia* employment had been declined.

It is contended that mother of the petitioner, Smt. Parkash Kaur, while being posted as JBT Teacher in Government Primary School, Bhagpur Gagra, died in harness on 14.08.1999. She was survived by two minor children, the petitioner-daughter and a son. Thus, father of the petitioner vide application dated 25.05.2000 (Annexure P-1), requested the respondents for reserving one post for the dependant children of the deceased government employee under the existing policy of 08.08.1998. The post was accordingly, kept reserved. The petitioner being eldest, after completing matriculation, applied for appointment on compassionate

grounds vide application dated 28.05.2008 (Annexure P-2). The same was duly forwarded by the B.P.E.O. Dharamkot and forwarded to the District Education Officer (Elementary Education), Moga vide letter dated 28.07.2008 (Annexure P-3). Thereafter, vide letter dated 12.01.2009 (Annexure P-4), the petitioner was asked to furnish a dependency certificate from the Deputy Commissioner. In compliance, the petitioner submitted dependency certificate dated 22.05.2009 (Annexure P-5). After receiving the dependency certificate, office of the Director Secondary Education again wrote to the District Education Officer, Moga, vide letter dated 26.06.2009 (Annexure P-6), stating therein that the government has amended the qualification criteria for the post of Clerk as Bachelor Degree from a recognized University with computer course of 120 hours. On receipt of the above letter, the petitioner through her father vide application dated 21.06.2011 (Annexure P-7), again requested the authorities that the petitioner was 10+2 and she may be appointed on any suitable post according to her qualification. However, after completion of the entire exercise, the respondents vide letter dated 03.08.2011 (Annexure P-9) intimated that since the death in question had taken place a long time back, therefore, the compassionate appointment cannot be granted in view of the government policy. In the interregnum, the petitioner completed her graduation and thus, again applied for the post of Clerk vide application dated 29.05.2013 (Annexure P-11). The said application was duly forwarded to the Director, Secondary Education vide letter dated 11.02.2014 (Annexure P-14). Thereafter, the petitioner also caused to serve upon the respondents legal notice dated 27.08.2014 (Annexure P-15), but to

no avail.

Learned counsel contends that the claim of the petitioner has been rejected only on the ground that a long time has elapsed. However, the same is untenable because the case of the petitioner is required to be considered in accordance with the policy dated 08.08.1998, which was in vogue at the time of death. Further, the State government issued a fresh notification on 21.11.2002 (Annexure P-17), which was further amended vide circular dated 03.07.2008 (Annexure P-18), whereby, a proviso had been added to the effect that where the deceased government employee leaves behind his/her minor children, who are not qualified for the employment in government and the spouse is not in a position to join the government job, a dependent child may be allowed to apply for compassionate appointment by the competent authority within a period of one year from the date of attaining the age and educational qualifications for a Group 'C' and 'D' posts. It was further decided that on humanitarian grounds, as a special one-time measure, all the old deserving cases be considered by calling upon applications from such candidates. Despite the specific instructions, the Department rejected the claim of the petitioner on the ground that the death had taken place a long time back.

On the other hand, learned State counsel submits that the claim of the petitioner has been rightly rejected. At the time of death of the mother, the petitioner's father was already in government employment. He was also paid all retiral benefits on account of death of his wife, the mother of the petitioner. Thus, the family had enough sources of livelihood to sustain themselves, which is the core consideration in deciding the cases for

compassionate appointment.

Heard.

It is to be noticed that as per letter dated 21.11.2002, issued by the Government of Punjab, Department of Personnel (Personnel Policies-II Branch), the following persons would be eligible to be considered for appointment on compassionate grounds:-

1. *A dependant member of the family of a person (bread-winner) killed or 100% physically disabled in terrorist action or by security forces acting in aid of civil power, in the State:*
2. *A dependant member of the family of the deceased Government employee, who dies in harness;*
3. *Disabled Ex-servicemen (fit for Civil Service);*
4. *A dependant member of the family of the Defence Services' Personnel;*
 - (i) *Killed in service, while performing duties, or*
 - (ii) *Who are severely disabled and totally unfit for re-employment."*

Hon'ble the Supreme Court in ***Umesh Kumar Nagpal Vs. State of Haryana and others, 1994(4) SCC 138*** has held that as a rule, appointment in public service should be made strictly on the basis of open invitation of applications and merit. The appointment on compassionate ground is not another source of recruitment but merely an exception to the aforesaid requirement taking into consideration the fact of the death of an employee while in service, leaving behind the family without any means of livelihood. Thus, the core object of compassionate appointment is to enable the family to get over sudden financial crisis.

A Division Bench of this Court in ***Hardeep Singh Versus Union of India and others, 2012(3) S.C.T 626***, has held as under:-

*“6. Even on merits petitioner's claim for compassionate appointment is not sustainable. The object of the compassionate appointment is to provide immediate financial help to the family in penury and overcome their financial needs. It has been noticed by the authorities while rejecting the claim that the family is not in penurious and in indigent condition. Nothing has been mentioned about this aspect. Otherwise also the claim for compassionate appointment after such a long period is not sustainable in view of the dictum of the judgement of Hon'ble Supreme Court in case of **Mumtaz Yunus Mulani v. State of Maharashtra & others., reported as 2008(2) SCT 669 : [2008(3) SLR 782 (SC)]** made following observations:*

"Furthermore about 12 years have passed. Appellant's son is aged about 20 years and daughter is aged about 16 years. Therefore they have become major. Appellant herself would be aged about 38 years now. She cannot be given any appointment at this age."

In this case, it has come on record that at the time of death of the employee, Smt. Parkash Kaur, her husband i.e. father of the petitioner, Hari Kishan Singh, was already into regular government service. The family was also paid the retiral benefits on account of death of Smt. Parkash Kaur. Thus, in the given circumstances, the family of the petitioner could not be termed as penurious. Learned counsel for the petitioner has candidly

admitted that the petitioner was already married at the time of filing the instant petition.

In view of the above, no case for grant of relief sought in the instant petition is made out.

Dismissed.

08.11.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No