

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

CWP No. 5993 of 2013

Date of Decision: 16.11.2019

Vikram Kumar Manchanda and another

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Arun Jindal Advocate
for the petitioners.

Ms. Simran Grewal, AAG, Punjab.

Mr. Vikas Chatrath, Advocate
for the High Court.

RAJIV NARAIN RAINA, J. (Oral)

1. Heard.

2. The petitioner's father died shortly before his superannuation from the District Courts at Sangrur. The petitioner is 1980 born. That makes him about 39 years today and about 33 at the time of presentation of the petition. His request for compassionate appointment has been rejected by the High Court by an order which is impugned as non-speaking, illegal and arbitrary. The order actually is a non-speaking one and therefore this Court called for the original record. The record reveals that the petitioner and his family have a residential house in a plot measuring 70 sq. yds. in District Sangrur. The petitioner had received the retirement benefits of the deceased father. The details

have been given in a tabular form by Mr. Chatrath appearing for the High Court which included Rs. 10 lacs in death-cum-retirement gratuity and Rs. 3,77,300/- in leave encashment dues. The same is retained on record as Mark 'A'. The family pension worked out at the relevant time was Rs. 7,164/- per month which stands revised from time to time.

3. The petitioner has not asserted that the family left behind was in dire financial stress or in a state of poverty at the time of death of the father. There is also no averment in the petition regarding the monetary status of the family throughout this period or how they have managed to survive. Compassionate appointment is ante-thesis to equal opportunity in Article 16 of the Constitution as it is an exception and not the rule. Each case it is trite to say has to be considered and decided on its own facts. The petitioner has not made any effort to look for employment elsewhere. In any rate, this Court is not prepared to help pass on the baton of employment to the son for the next two decades when the father died at the fag end of his career short of retirement by only a few months. He was normally expected to have made his family's post-retirement arrangements by then.

4. I accordingly find no substantive reason to set aside the order of the High Court merely because it is non-speaking. It is well within the scope of exercise of certiorari jurisdiction to call for the records in original to decide a case so long as relevant material is available therein for fair and complete adjudication. This is simply

because certiorari goes to record. There is sufficient material in the record produced to support an order of rejection of request for compassionate appointment.

5. Mr. Chatrath while deciding the petition has relied on my order in *Jagdeep Mittal Vs. Punjab and Haryana High Court, Chandigarh*, 2019 (1) S.C.T 469 in his support. However, he submits that an appeal is pending against the judgment but no stay order has been granted. Be that as it may, there are multiple factors existing ex facie, including the fact that the petitioner is educated and holds a practicing LLB degree, to decline relief. Said over and over again, compassionate appointment cannot be claimed as a matter of right. Having delved into the record I find that injustice has not been visited upon the petitioner by the impugned order and none of his fundamental or civil rights have been infringed.

6. For these reasons, the petition is dismissed; the writ of certiorari and mandamus is refused.

(RAJIV NARAIN RAINA)
JUDGE

16.11.2019

kv

Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*