

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

LPA No. 1565 of 2019 (O&M)

Date of Decision: 20.11.2019

Pawan Kumar

.....Appellant

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
 HON'BLE MR. JUSTICE RAJIV SHARMA, JUDGE**

Present : Mr. Kamal Sharma, Advocate, for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

The appellant has filed this appeal being aggrieved by the order passed by the learned Single Judge on 19.07.2019 dismissing the petition filed by him for claiming compassionate appointment w.e.f. 28.08.2006.

Brief facts leading to the filing of the present petition are that the petitioner's father died in harness while serving the respondents, consequent to which the petitioner (appellant herein) applied for appointment on compassionate ground. The authorities asked the petitioner to give option for opting class-IV post or accept Rs. 2.50 lacs in lump sum in lieu thereof. The said option was offered to the petitioner in the year 2006 itself. According to the petitioner he gave an option claiming compassionate appointment against Class-IV post in the year 2009 but no further action was taken by the authorities compelling him to file a writ petition before this

Court which was registered as Civil Writ Petition No. 17718 of 2011. It is

submitted that this Court vide order dated 16.08.2012 allowed the writ petition and directed the respondents to consider and appoint the petitioner on compassionate ground against Class-IV post. It is submitted that though a direction was issued by this Court to the authorities on 16.08.2012, the authorities did not take any steps towards compliance of the order for a long period forcing the petitioner to file a Contempt Petition which is registered as COCP No. 1236 of 2013. It is stated that on receiving the notice of the contempt proceedings, the respondents appointed the petitioner against Class-IV post on 03.02.2014, pursuant to which the contempt petition was disposed of.

It is stated that the present proceedings were taken up by the petitioner for issuance of a direction to the respondents to treat the petitioner as appointed on compassionate ground w.e.f. 2006 as the persons who were similarly placed with the petitioner and had applied for compassionate appointment were granted the same w.e.f. 2007. It is submitted that the learned Single Judge has dismissed the petition filed by the petitioner by holding that the petition suffers from delay and laches and that the claim for parity and similar treatment with one Naresh Kumar is not tenable being based on different footings. It is submitted that the court below has failed to appreciate the facts of the case in its proper prospective and has wrongly rejected the petition. Hence this appeal.

We have heard learned counsel for the appellant at length.

From a perusal of the record as well as the impugned order it is evident that the previous petition filed by the petitioner was allowed vide order dated 16.08.2012 with the following directions:-

“In view of the above, the present writ petition is allowed. A direction is issued to the respondents to consider and thereafter appoint the petitioner to a Class IV post for which he was eligible when the offer was made to him vide letter dated 28.08.2006 (Annexure P-1) within a period of two months from the date of receipt of certified copy of this order.”

As is evident the direction given by this Court was to consider and take a decision on the offer/option given by the petitioner within a period of two months from the date of receipt of a certified copy of the order. In the said petition the petitioner did not claim nor did the petitioner bring on record the fact that he had given an option in the year 2009 itself to claim relief for being given compassionate appointment retrospectively. The Court after considering all the issues raised by the petitioner only directed the authorities to take a decision on the application filed by the petitioner seeking compassionate appointment within two months from the date of receipt of a certified copy of the order. No direction was issued to grant appointment from a retrospective date.

This order was passed by this Court on 16.08.2012. The facts on record further reveal that in the contempt petition filed by the petitioner the authorities produced the order of appointment of the petitioner dated 03.02.2014 whereupon the contempt petition was disposed of as infructuous by taking note of the fact that the petitioner was satisfied with the appointment order issued by the respondents. It is in the backdrop of the aforesaid facts that the learned Single Judge has stated that the petitioner cannot now turn around and claim retrospective appointment on compassionate ground w.e.f. 2006 or 2009 and that such a claim was barred by delay and latches.

We are of the considered opinion that in the facts of the present case there is no illegality or infirmity in the impugned order passed by the learned Single Judge warranting interference.

In view of the facts as stated by us in the preceding paragraphs the claim of parity claimed by the petitioner is also misconceived as each case has to be decided on its own facts and the facts of the present case are different.

The appeal is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

20.11.2019
ravinder

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