

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

119

Civil Writ Petition No.2346 of 2020
Date of Decision: January 29th, 2020

Parul Chhura

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sukhdev Singh Khokher, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for quashing of the order dated 16.05.2011 (Annexure P-4) passed by the Director Administration, office of the Director, Education Department, Punjab, whereby the request made by the petitioner for appointment on compassionate grounds on the post of Clerk because of the death of his father while in harness on 13.08.2010 while he was serving as a Head Master at Government Primary School, Dera Saidan, Sultanpur Lodhi, District Kapurthala, stands rejected.

2. It is the contention of learned counsel for the petitioner that the respondents have, merely because the mother of the petitioner was in Government job and drawing salary of ₹17,820/- per month, proceeded to reject the application. This, the counsel for the petitioner, contends is not sustainable in the light of the fact that as per the Punjab Government Instructions dated 21.11.2002 (Annexure P-9), wherein it is asserted that even if a family member of the deceased servant is in employment and is not supporting the other members of the family of the Government servant, economic distress of the members of the family should be assessed and

ascertained and it is thereafter only that a decision be taken to accept or reject such an application. He contends that while passing the order dated 16.05.2011 (Annexure P-4), the said aspect has not been taken into consideration. His another assertion is that persons, whose other family members were in service, have been appointed, whereas the claim of the petitioner has not been accepted and thus, asserts discrimination at the hands of the respondents.

3. Having considered the submissions made by the counsel for the petitioner, the said contentions of his cannot be accepted in the light of the fact that the respondents have rightly taken into consideration the facts with regard to the employment of the mother of the petitioner in Government service. It is apparent that she was earning ₹17,820/- per month as salary. On this basis alone, it cannot be said that respondents were wrong in concluding that there was no financial distress or a sudden financial crisis, which would require intervention of the respondent-department entitling the petitioner to be appointed to the post on compassionate grounds. The policy of compassionate appointment cannot be said to be put into service where the competent authority comes to a conclusion that there is no financial distress or the sole bread winner has expired, where the family is likely to starve. This was not the position in the case of the petitioner, therefore, the claim of the petitioner as made in the present writ petition based upon the rejection of his prayer for appointment as Clerk on priority basis vide order dated 16.05.2011 (Annexure P-4), cannot be said to be in violation of the law as has been laid down by the

Supreme Court and the policy applicable.

4. Another prayer which has been made by the counsel for the petitioner is that similarly placed employees, who had died during harness, the wards have been appointed despite the other family members being in service. The facts and circumstances of those cases are not available with this Court and, therefore, such a plea as has been made, cannot be accepted. The competent authority is the best judge with regard to the financial crisis/position of the family and as to whether there is actual economic distress or not. In those particular cases, the competent authority would have exercised its powers on the basis of the peculiar circumstances prevailing in the family. The Instructions dated 21.11.2002 (Annexure P-9) does give that discretion to the appointing authority.

5. Another aspect which actually goes to the root cause of the matter is that the petitioner has approached this Court after a delay of almost ten years since the passing of the impugned order dated 16.05.2011 (Annexure P-4). This itself is a good ground for rejecting the present writ petition as the very purpose for appointment on compassionate grounds stands, by now, mitigated. At this belated stage, the prayer as made by the petitioner, cannot be accepted.

6. The writ petition, therefore, stands dismissed.

January 29th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No