

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

CWP No. 9890 of 2020 .

Date of Decision: January 25, 2021

Rahul Sharma

..... Appellants(s)

Versus

State of Punjab and another

..... Respondent(s)

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Animesh Sharma, Advocate
for the petitioner.

Mr. Abhay Pal Singh Gill, Asst. A.G., Punjab.

Mr. Anupam Singla, Advocate
for respondent no.2.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

This petition has been filed for setting aside order dated 22.06.2020 (Annexure P-10), passed by respondent no.2, whereby petitioner's claim for appointment on compassionate basis has been rejected.

Petitioner's father, who was working as Personal Assistant to the Chairman, Head Office, Pepsu Road Transport Corporation, unfortunately passed away on 10.10.2008 while in service. Petitioner was admittedly a minor at that time, his date of birth being 26.05.1991. An application dated 17.12.2008 (Annexure P-2) was moved by the petitioner's mother, seeking appointment of petitioner on compassionate basis. The petitioner at that time was 17 years old having completed his matric and pursuing diploma in Electronics and Communication. When petitioner attained majority, another

application (Annexure P-3) was moved by petitioner's mother. Thereafter, petitioner himself submitted an application dated 09.09.2014 (Annexure P-4), seeking appointment on compassionate grounds. Petitioner's claim was rejected vide order dated 11.02.2016, which was challenged by petitioner in CWP-16891-2016. Vide order dated 19.02.2020 (Annexure P-8), passed in CWP-16891-2016, order dated 11.02.2016 was set aside, while observing that it was expected of the respondent-Corporation to at least explain the reasons as to why petitioner's case was not found to be deserving. It was directed that respondent-Corporation would reconsider petitioner's claim for compassionate appointment in terms of norms and scheme obtaining as on the date of death of his father i.e. 10.10.2008 and petitioner was permitted to file an affidavit alongwith supporting material in proof of his claim that his family is in a state of penury, even as on date and that his case deserves to be considered for compassionate appointment.

Pursuant thereto, impugned order dated 22.06.2020 (Annexure P-10) was passed, whereby petitioner's claim has been rejected on the ground that petitioner's mother was working in the Education Department herself. Furthermore, family pension was being received by her and petitioner himself was working on contractual basis with the Punjab State Power Corporation, Gobindgarh.

Learned counsel for the petitioner vehemently argues that the impugned order is totally illegal, unjustified and is liable to be set aside. Petitioner's mother, it is submitted, was not in service at the time of death of his father. She had in fact retired from the Education Department on 31.05.2008 i.e. before the death of petitioner's father on 10.10.2008. She was merely

working on contract basis by way of extension of service at the relevant time. Furthermore, receipt of family pension cannot in any manner be a hurdle to appointment of petitioner on compassionate basis. He relies upon judgement of the Hon'ble Supreme Court in *Canara Bank and another Vs. M. Mahesh Kumar 2015(AIR (SC) 2411*. It is further submitted that petitioner is merely working as a contractual employee with PSPCL and impugned order has been wrongly passed on the grounds as mentioned above. It is thus prayed that impugned order dated 22.06.2020 be set aside.

Learned counsel for the respondent-Corporation while arguing for up-holding of impugned order, submits that no ground whatsoever is made out for appointment on compassionate basis to the petitioner in the given facts and circumstances. It is thus prayed that this petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their able assistance.

The factual aspect of death of the petitioner's father on 10.10.2008 while in service, is a matter of record. There is further no dispute regarding applicability of Scheme for Compassionate Appointment, 2002 (Annexure P-1) as well as subsequent additions in the policy instructions, specifically dated 18.07.2005 and 03.07.2008. As per instructions dated 18.07.2005 payment of gratuity, leave encashment, GPF and other pensionary benefits are not to be taken into account while verifying or examining the financial position of a deceased employee. As per instructions dated 03.07.2008 supplementing policy dated 21.11.2002, it is provided that when a deceased Government employee leaves behind his/her minor children who are studying at the time of his death and are not qualified for employment in the Government and the

spouse is not in a position to join a 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 from a Group C or D appointment with the Government.

Application for appointment on compassionate ground had been moved by petitioner firstly on 17.12.2008 and thereafter in 2009. After another five years, petitioner moved representation dated 09.09.2014. It is not denied that petitioner's mother was working as a Teacher with the Education Department and that she was allowed extension in service from 01.06.2008 till 31.03.2009. Admittedly, she is in receipt of pension in her own right. The petitioner is gainfully employed, though a contractual employee with PSPCL, after having managed to attain educational qualification. It is a settled position that appointment on compassionate basis is not a vested right available to any person and neither is it a mode of alternate recruitment. The same is a measure adopted by an employer to help the family of the deceased employee to tide over an immediate crisis which may arise on death of such employee or overcome the state of penury which visits them on such death. The Hon'ble Supreme Court in *Umesh Kumar Nagpal Vs. State of Haryana and others, 1994(3) SCT 174* has held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rationale nexus to the object sought to be achieved viz. relief against destitution. It is further observed that compassionate appointment can't be claimed when the crisis is over and neither can it be offered on an ad hoc basis.

The Hon'ble Supreme Court in State of *Madhya Pradesh and others Vs. Amit Sriwas, 2020(10) SCC 496* has reiterated that there is no inherent right to appointment on compassionate basis. It is a right based on certain criteria and is to provide support to a needy family.

It is relevant to note that vide order dated 19.02.2020 in CWP-16891-2016, petitioner had been permitted to file an affidavit alongwith supporting material in proof of his claim that his family is in a state of penury, even as on date and his case deserves to be considered for compassionate appointment. A perusal of the file as well as the arguments addressed by learned counsel for the petitioner do not reveal such a situation, which would justify appointment to the petitioner on compassionate basis. Thus I do not find any infirmity or illegality in the impugned order dated 22.06.2020 (Annexure P-10), which is upheld.

No other argument has been addressed.

Petition is accordingly dismissed with no order as to cost.

(LISA GILL)
JUDGE

January 25, 2021

'Sunil'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No