

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

Sr. No.219

**CM-2422-CWP-2021 in/and
CWP No.13746 of 2014
DATE OF DECISION: April 06, 2021**

MALKIAT SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Parminder Singh Sekhon, Advocate, for the petitioner.
Mr. Charanpreet Singh, AAG, Punjab, for respondent No.1.

SUDHIR MITTAL, J. (ORAL)

CM-2422-CWP-2021

This application has been filed for advancing the date of hearing in the main case from 02.07.2021 to an earlier date.

Notice of the application was issued vide order dated 02.03.2021 for today.

Office report indicates that counsel for respondents No.2 to 4 has been informed through e-mail but none has put in appearance. By implication, counsel for the respondents has no objection in case the date of hearing in the main case is advanced.

Accordingly, the application is allowed and the date of hearing in the main case is advanced to today. Main case is taken on board.

CWP-13746-2014

This is a case regarding compassionate appointment. The father of the petitioner was serving as an Assistant Lineman and he died in harness due to electrocution on 18.06.2008. The petitioner being the only son applied for compassionate appointment on 21.06.2009. No action was

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taken thereupon and thus, representation dated 04.05.2010 (Annexure P-3) was also submitted. Yet, nothing was communicated to the petitioner and thus, he approached this Court through CWP No.11412 of 2010 which was disposed of vide order dated 01.07.2010 (Annexure P-4) with a direction to the concerned authorities to decide the representation by passing a speaking order. Speaking order dated 01.11.2010 (Annexure P-5) has been passed rejecting the representation of the petitioner on the ground that the Board of the then PSEB had decided in its meeting on 16.08.2004 to discontinue with the policy of compassionate appointment and instead to pay solatium in case an employee died in harness. In accordance with the said decision, solatium of ₹3 lacs and special pension have already been granted to the widow and thus, the claim for compassionate appointment was rejected.

Learned counsel for the petitioner has submitted that despite the aforementioned decision, the respondents Nos.2 to 4 have been making appointments on compassionate grounds. Respondent No.5 was appointed on 16.12.2011 and respondent No.6 was appointed on 11.04.2012. Many more persons have been appointed but details are not available. Thus, rejection of the claim of the petitioner is illegal & arbitrary and deserves to be set aside.

As noticed hereinabove, counsel for the respondents No.2 to 4 has not deemed it appropriate to put in appearance. Thus, the matter is being decided in his absence.

The claim of the petitioner is based upon discrimination. The said principle is not attracted in this case as the respondents No.2 to 4 have violated their own policy by appointing persons on compassionate grounds.

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A perusal of the written statement shows that the appointment of the said respondents on compassionate grounds has been admitted although it has been explained by averring that their respective fathers had died before the policy came into force. Be that as it may, the fact remains that if an appointment is made in violation of the policy, the same is illegal and if an illegality is committed by a public authority, such an instance cannot be cited to invoke the principle of discrimination. Thus, the writ petition has no merit and deserves to be dismissed.

It is so ordered.

Before parting, it needs to be noticed that in the written statement, it has been stated that the mother did not accept the ex-gratia amount and thus, she was not paid the special pension also. However, the respondents are willing to pay the same today also. Respondents are thus directed to release the ex-gratia amount of ₹3 lacs along with interest @ 6% per annum from the date the same was sanctioned till date of payment. Arrears of special pension shall also be paid along with the solatium with interest @ 6% per annum till the date of the payment and the pension shall continue to be paid in accordance with the rules, thereafter.

April 06, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No