

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 14776 of 2017(O&M)
Date of Decision:13.10.2021

Tirlok Bahadur

.....Petitioner

Versus

Registrar, Punjab and Haryana High Court and another

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Ms. Dhivya Jerath, Advocate
for the petitioner.

Ms. Savita Saxena, Advocate
for respondents no.1 and 2.

LISA GILL, J(Oral).

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

This writ petition has been filed for setting aside order dated 01.05.2014, Annexure P-6, stated to be received under RTI Act vide Communication dated 28.02.2017, Annexure P-7. Further prayer is for issuance of a direction to the respondents to appoint the petitioner on compassionate grounds.

Brief facts necessary for adjudication of the case are that petitioner's father namely Gobind Bahadur, was employed as Daftry, Class-III Employee at Sessions Division, Sangrur, since 1983. It is stated that Gobind Bahadur unfortunately passed away on 12.12.2011 while in service, after having rendered 28 years 11 months and 08 days of unblemished service. Application dated 04.01.2012, Annexure P-1, was submitted by the petitioner seeking appointment on compassionate grounds. Petitioner's

father left behind his widow, two sons including the petitioner and a daughter. Petitioner sought employment on compassionate basis while disclosing that his brother was serving the Army and that the family was finding it difficult to maintain themselves after the death of their father. Report dated 14.03.2012, Annexure P-2, in this regard was submitted by the Additional District Judge, Sangrur, to the District and Sessions Judge, Sangrur, with the observation that keeping in view the financial condition of the family of the late employee, appointment on compassionate grounds was not recommended. Petitioner's prayer for appointment on compassionate basis was rejected on 01.05.2014.

Aggrieved therefrom, this writ petition has been filed.

Learned counsel for the petitioner vehemently argued that petitioner's case has been rejected in an absolute illegal and arbitrary manner. It is submitted that observations of the learned Additional District & Sessions Judge, Sangrur in the report dated 14.03.2012, are not substantiated. Furthermore assets of Rs. 17,00,000/- as mentioned in the said report are with the petitioner's elder brother, who is separated from the family and is not looking after the family i.e., the widow and daughter of the deceased employee apart from the petitioner. It is further submitted that respondents have acted in a discriminatory manner inasmuch as appointment on compassionate basis has been afforded to one similarly situated Lovepreet Singh, whose father, late Nirmal Singh, was also serving as a process server at Barnala. When Nirmal Singh died in service, Lovepreet Singh was afforded appointment on compassionate basis. Present petitioner is stated to be similarly situated as Lovepreet Singh, however, appointment has not been afforded to him in an unjustified manner. It is thus prayed that this writ petition be allowed.

Learned counsel for the respondents while refuting the abovesaid arguments submits that no ground is made out for appointing the petitioner on compassionate grounds. Enquiry into financial status of the petitioner has been conducted not once but twice. Reference is made to the enquiry conducted by the learned Additional District & Sessions Judge, Sangrur, for the second time in respect to which report dated 01.05.2013, was submitted. It is thus prayed that present writ petition be dismissed.

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

It is a matter of record that petitioner's father was employed as Daftry at Sessions Division, Sangrur and he unfortunately passed away on 12.12.2011, while in service, leaving behind his widow, two sons and a daughter. Elder son of the deceased employee is admittedly serving the Indian Army. His second son i.e., the present petitioner, sought appointment on compassionate grounds in terms of Instructions issued vide letter no. F.11/105/98/4PP II/14420 dated 21.11.2002, 11/105/98/4 P II/2209 dated 05.02.2003 and 03/01/2011/5FE/301 dated 21.02.2011 to the District & sessions Judge, Sangrur. The matter was examined at the first instance, by learned Additional District Judge, Sangrur and keeping in view the financial condition of the family of the deceased, appointment on compassionate grounds for the petitioner was not recommended. The matter does not rest here. Another enquiry was yet again conducted by the learned Additional District & Sessions Judge, Sangrur to obviate any kind of prejudice. As per report dated 05.04.2011, it is again opined that the petitioner is not entitled for appointment on compassionate grounds. Perusal of report dated 05.04.2011, reveals that the learned Additional District & Sessions Judge, Sangrur, while conducting the enquiry has examined the matter in depth.

Learned counsel for the petitioner is unable to deny that a residential house has been constructed in which the petitioner, his mother and sister are residing. His elder sister had cleared her graduation in 2009 and was at that time teaching at Saraswati School, though it is mentioned that she has not been working since a long time now.

Learned counsel for the petitioner has vehemently argued that petitioner's elder brother who is serving the Indian Army is not supporting the other members of his family, therefore appointment on compassionate grounds should be afforded. However, apart from the fact that such claim is not substantiated from the record, it is to be noted that financial condition of the petitioner and his family, does not indicate such dire straits and penury which would justify appointment of the petitioner on compassionate grounds. It is a settled position of law that appointment on the basis of compassionate grounds is not an alternate mode of recruitment, it is only a measure to enable and aid a family to overcome an immediate financial crisis which a family may face on the sudden death of the sole earning member of the family. In the present case, it has come on record that no such immediate crisis visited the family, which was fortunately able to cope with the crisis and proceed to complete construction of the residential house. Moreover, lifestyle of the family indicated that they enjoyed facilities which do not in any way indicate financial penury. This is so apparent from report dated 05.04.2011 of the learned Additional District & Sessions Judge, Sangrur.

The Hon'ble Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana and others, 1994(3) SCT 174** has held that the 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. It is pertinent to note that there is no averment in the writ petition that at this point of time, petitioner and his family are in such dire straits or such state of penury making it difficult to make two ends meet. Petitioner's father had passed away in 12.12.2011 and his claim for appointment on compassionate basis rejected on 01.05.2014. There is indeed nothing on record to indicate such financial crisis calling for appointment on compassionate basis. Argument raised by learned counsel regarding discrimination is noticed only to be rejected. Apart from the fact that there is nothing on record to indicate that the petitioner is identically situated as Lovepreet Singh, who is stated to have been appointed on compassionate basis, the given factual matrix as discussed above does not justify appointment of petitioner on compassionate basis in any manner.

Keeping in view the facts, circumstances and reasons as discussed in the foregoing paras, I do not find any ground whatsoever to interfere in the present writ petition, for directing the respondent-authorities to reconsider the case of the petitioner for appointment on compassionate basis.

No other argument has been addressed.

Petition is accordingly dismissed with no order as to cost.

13.10.2021
s.khan

[LISA GILL]
Judge

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