

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

CWP No. 23783 of 2022
Date of decision: 17.10.2022

Dildeep Singh

....Petitioner(s)

Versus

Union of India and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. K.G. Chaudhary, Advocate, for the petitioner.

Mr. Ashish Rawal, Advocate, for Union of India.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 03.08.2017 (Annexure P-2) passed by respondent No.4. Challenge has also been raised to the order dated 20.10.2021 (Annexure P-5) whereby the Central Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal') has rejected the claim for compassionate appointment primarily on the ground that the date of death of the employee was dated 11.03.2009 and the application was submitted on 20.05.2014 for appointment on compassionate basis after completing the age of majority. It was further noticed that the applicant's mother is working as a Trained Graduate Teacher (Punjabi) in the Education Department, Haryana State and is still in service till 2025 and the fact that the family had been able to manage its affairs also prevailed with the Tribunal.

Apart from that, it was noticed that the rejection order dated 03.08.2017 was challenged after a delay of 681 days and, therefore, keeping in view the provisions of Section 21 of the Administrative Tribunals Act,

1982, it was held that challenge should have been raised within one year

from the date when the final order was passed. The original application was thus dismissed while placing reliance upon the judgments of the Apex Court in *Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138* and *State of Himachal Pradesh vs. Shashi Kumar, 2019 (3) SCC 653*.

Counsel for the petitioner has pointed out that the impugned order as such is a non-speaking order in the sense that the only ground on the basis of which his application was rejected was that his case had been considered sympathetically but not acceded to by the competent authority as the family was not found indigent. It is accordingly submitted that only after he attained the age of majority as such and after doing his 10+2, the application had been filed. The delay after passing of the order as such was also sought to be explained on the ground that similarly situated persons had been granted benefit and, therefore, the representation had been made and then legal notice had been served and then the original application had been filed.

We are of the considered opinion that the Tribunal has not fallen in any error in passing such order. A perusal of the instructions also, which have been appended as Annexure P-9, would go on to show that if an application is filed as such beyond a period of 5 years, there would be a presumption that there is adequate proof that the family had some dependable means of subsistence. Clause 9(a) of the instructions read thus:-

**“9. BELATED REQUESTS FOR
COMPASSIONATE APPOINTMENTS**

(a) Ministers/Departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a

Government servant took place long back, say five years or so. While considering such belated requests it should, however, be kept in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Government servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases would call for a great deal of circumspection. The decision to make appointment on compassionate grounds in such cases may, therefore, be taken only at the level of the Secretary of the Department/Ministry concerned.”

It is admitted itself as per the pleadings in per the original application that the mother was already working as Government teacher. In such circumstances, keeping in view the fact that appointment on compassionate grounds is an exception to the normal source of recruitment which has been noticed by the Apex Court in *Umesh Kumar Nagpal's case(supra)* and the fact that the same has to be acted upon on account of the fact that the family might face penury on account of the bread winner dying unexpectedly.

In the present case, as noticed, the wife of the deceased and the mother of the applicant is also a government employee as such. In such circumstances, the rejection as such which was done was on the basis of the said background and, therefore, no fault can be found as such in the order of the authorities declining the appointment. Reliance can also be placed upon the latest judgment of the Apex Court in ***Steel Authority of India Ltd. vs.***

order of the Central Administrative Tribunal which had directed the appellant to reconsider the case of the second son of the deceased by noting that the death was of the year 1977 and the rejection was of the same year. The Tribunal had been approached in the year 2014 and directions had been issued. Resultantly, it was held while placing reliance upon the judgment in ***Punjab State Power Corporation Ltd. And others vs. Nirval Singh (2019) 6 SCC 774*** that where there is a delay of 7 years in approaching the Court, the dependant shall not be entitled to compassionate appointment while placing reliance upon the judgment in ***State of Jammu & Kashmir and others vs. Sajad Ahmed Mir, (2006) 5 SCC 766***.

In such circumstances, we are of the considered opinion that after the impugned order had been passed by the authorities on 03.08.2017, the challenge was raised at a belated stage in the year 2021. Therefore, the Tribunal was also justified in dismissing the original application on the ground of limitation on account of the statutory bar which has been imposed and also keeping in mind that the family was comfortably placed and an exception was not to be made.

In such circumstances, no fault can be found in the order of the Tribunal and the present petition is accordingly dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

17.10.2022
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No