

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

CWP-5566-2021

Date of decision : 10.02.2022

Bharat Singh

...Petitioner

V/s

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Abhimanyu Kalsy, Advocate for
Mr. Manoj Kumar Palwal, Advocate for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

Challenge in the present case is to the order dated 12.01.2021 passed by the Central Administrative Tribunal, Chandigarh Bench wherein claim of the petitioner for compassionate appointment to the post of MTS has been rejected.

The Tribunal has come to the conclusion that the competent authority had considered the case of the petitioner. Keeping in view the fact that two elder brothers of the petitioner were employed in Haryana Police and J.C.B. Limited and the mother of the petitioner was getting a basic family pension of ₹26,000/- + D.A. + Fixed Medical Allowance of ₹2,000/- per month and was also the owner of House No. 224-D, Bhagat Singh Colony, Ballabgarh which had an estimated cost of ₹8.00 lacs, it came to the conclusion that the family was not living in penury. The right to compassionate appointment being not a vested right, therefore, the case of the petitioner has been rejected.

It is not disputed that petitioner's father died on 28.12.2014 serving as Senior Social Security Assistant in Regional Office, Faridabad (Haryana) of Employees Provident Fund Organization, Ministry of Labour and Employment, Government of India. As per the original application itself filed before the Tribunal, it is the case of the petitioner himself that one of the brothers was working in Haryana Police and the other was employed in J.C.B. Limited and both

were living separately and not helping the family in any manner. In such circumstances, claim was put forth by the petitioner for appointment on compassionate ground.

It is not disputed that the case of the petitioner was considered by the Board constituted for the purpose of granting compassionate appointment in pursuance of his application and he was called for the interview for the post of MTS on 30.04.2015 at 11.00 A.M. On 31.05.2017, however, case of the petitioner was rejected on the ground that the aggregate points attained were less than the cut off points. The petitioner challenged the said order (Annexure A-11) before the Tribunal. The Tribunal after duly considering the case of the petitioner and on account of the fact that the family owned a residential house in Ballabgarh, estimated costs of which is approximately ₹8.00 lacs and besides the family is drawing pension of ₹26,000/- + D.A. + Fixed Medical Allowance of ₹2,000/- per month and two of the brothers of the petitioner were well placed held that petitioner was not entitled for employment on compassionate ground as it is not a vested right.

It is a settled legal proposition that compassionate appointment cannot be claimed as a matter of right as has been held by the Tribunal. The judgment of the Apex Court in *Umesh Kumar Nagpal vs. State of Haryana 1994(4) SCC 138* has held that compassionate appointment is a matter of exception to enable the family to tide over the exigencies on account of sudden death of the employee in question and the financial condition of the family has to be kept in mind. The operative part of the judgment in *Umesh Kumar Nagpal's* case (supra) reads as under:-

“2..... The favourable treatment given to such dependent of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz. relief against destitution. No

other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectation, and the Change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.

3. Unmindful of this legal position, some Governments and public authorities have been offering compassionate employment sometimes as a matter of course irrespective of the financial condition of the family of the deceased and sometimes even in posts above Classes III and IV. That is legally impermissible.”

The Tribunal has also followed the view by placing reliance upon the judgment titled as *Union of India vs. Joginder Sharma, 2002(4) SCT 438 (SC)* wherein it was held that appointment on compassionate grounds is not a vested right and is an exception which has been followed consistently in various judgments. In judgment titled as *Punjab National Bank vs. Ashwani Kumar Taneja 2004(4) RSJ, 111*, the Apex Court reversed the judgment of the High Court wherein a direction has been issued that the case of the respondents be considered and the benefit of retiral dues received, cannot be a ground for rejecting the application for appointment on compassionate ground. Resultantly, it was held that the provision of compassionate appointment was in the nature of exception and the general provisions and the financial condition of the family has to be taken into consideration and the judgment of the Rajasthan High Court was accordingly reversed.

Similarly in the judgment titled as *V.S. Murthi vs. State of Andhra Pradesh 2008(4) RSJ 343*, it was held that the appointment on compassionate

ground has to be made in accordance with the rules, regulations and the administrative instructions and also taking into consideration the financial condition of the family of the deceased, as has been noticed in the present case. Apart from the pension which the widow is drawing and also owning a residential house, the other children are well placed and merely because the other sibling (petitioner herein) is not employed, would not accrue any right for consideration of appointment on compassionate ground.

Similarly in judgment tilted as *State of Himachal Pradesh vs. Parkash Chand (2019) 4 SCC, 285*, the order of the High Court for consideration of appointment on compassionate ground which was done irrespective of the employment of other family members employed in State Government, Autonomous Bodies/Corporation, was set-aside by noticing that the elder brother of the respondent was engaged in Government servant but a plea was taken that he was living separately, without being any factual averments in support of the said plea.

Keeping in view the above facts and circumstances and the settled position of law, no case is made out for interference in well reasoned order passed by the Tribunal. Resultantly, the writ petition is dismissed.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

February 10, 2022
Ajay

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