

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

**CWP-14506-1999 (O&M)
Date of decision: August 29 2022**

Mohinder Singh

.....Petitioner

versus

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Deepak Saini, Advocate,
For the petitioner.

Mr. R.D. Sharma, DAG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to consider the petitioner for compassionate appointment on account of death of his father.

2. Succinct facts first. In 1994, father of Petitioner Shri Kesar Singh was working as Kehar-cum-Chowkidar in Government Primary School Jakhari and while in service became orthopedically disabled to the extent of 70% as certified by the District Medical Officer-cum-Orthopedic Surgeon, Narnaul (Mohindergarh) vide certificate dated 25.07.1994 (Annexure P-1). He applied for his retirement with effect from 31.07.94 with due pensionary benefits which were duly granted to him/his family as per his request. He also applied for ex gratia appointment as Class IV employee for his son namely Sh. Mohinder Singh (Petitioner) on 27.04.1995. The application for appointment under ex-gratia scheme was duly considered by the competent authority and it was found that as per the State Government instructions dated 23.11.1992 the requisite disability certificate must be issued by a

“Special Medical Board” constituted by the Health Department Haryana at

PGI Medical College Hospital, Rohtak. Father of Petitioner did not submit the same and therefore his claim for appointment of his son under ex gratia scheme was filed vide order dated 30.08.1996 and the same was conveyed to the wife of Sh. Keshar Singh. Aggrieved, Sh.Keshar Singh, represented against the aforementioned order and the case was referred to Director, Health Services Haryana, who gave his opinion vide letter dated 03.03.1997 and directed Sh. Kesar Singh to present himself before the Board, which was duly conveyed to wife of Sh Kesar Singh on 01.04.1997. However, she informed the respondent department that Sh Kesar Singh has already expired on 24.11.1996 and again requested them to grant appointment on compassionate grounds to her son (petitioner) as class IV employee.

3. The request was again duly forwarded to the Chief Secretary, Haryana, vide letter dated 26.08.1997 for his special guidance. Vide letter dated 16.09.1997, the Chief Secretary to Government of Haryana stated that ex gratia appointment to the petitioner herein cannot be given as his father did not produce the disability certificate from the Special Medical Board which is mandatory as per the provisions of the instructions dated 23.11.1992. This opinion was duly conveyed to the applicants vide Memo. dated 21.01.1998 through the District Primary Education Officer. Aggrieved petitioner was constrained to file CWP no.383 of 1999 for redressal of his grievance and vide order dated 13.01.1999 (Annexure P-6), the writ was disposed of with a direction to pass a speaking order on the petitioner's claim for compassionate appointment within 3 months.

4. In compliance of the aforementioned order passed by this Court, respondent no.2 vide a speaking order dated 19/21.07.1999 (Annexure P-7), rejected the claim of the petitioner. Hence, the instant writ petition.

5. Learned State counsel submits that Competent Authority, i.e. respondent no.2 rightly rejected the claim of petitioner as he did not produce the disability certificate from the Special Medical Board which is mandatory as per the provisions of the instructions dated 23.11.1992 and the same had been already conveyed to the wife of Sh Kesar Singh vide office Memo dated 30.08.1996. He further submits that Sh. Kesar Singh died on 24.11.96 i.e after his premature retirement. Therefore the Petitioner did not fulfil the requirement of record.

5. I have heard learned counsel for the parties and gone through the case file.

6. Currently petitioner is stated to be around 65 years old. Concededly, petitioner's father died after having sought voluntary retirement. In view thereof, the case of the petitioner is not covered by the compassionate appointment policy.

7. No grounds are made out to interfere. Dismissed.

(ARUN MONGA)
JUDGE

August 29, 2022

dharamvir

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No