

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

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CWP-5231-2022

Date of decision : 05.04.2022

Ajay Kumar

....Petitioner

V/s

Central Administrative Tribunal, Chandigarh
and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. K.B. Raheja, Advocate for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

Challenge in the present writ petition is to the order dated 19.01.2021 (Annexure P-1), passed by the Central Administrative Tribunal, Chandigarh whereby claim of the petitioner for compassionate appointment was rejected.

The reasoning which weighed with the Tribunal was that the case of the applicant (petitioner herein) had been duly considered and there was Weightage Point System followed by the respondents and the applicant had obtained 51 points and was at serial No.11. Since the cases below 55 points were considered as non-indigent and as such the case of the applicant was not recommended by the Committee for compassionate appointment. Resultantly, order dated 21/23.10.2017 (Annexure P-2) was communicated to the petitioner.

It was also noticed that the applicant had received ₹24,00,732/- as terminal benefits of the deceased employee and Weightage Point System had been introduced by the BSNL for its employees vide letter dated 27.06.2007. This policy was uniformly applicable to all the employees of BSNL for the last over 10 years. It was accordingly held that the said system had brought uniformity in the assessment of indigent condition of the family and decreases the element of discrimination available with the executive authorities. It was also held that the system was definitely more transparent and equitable than any other system in the cases where no such clear cut way of assessment of indigent condition was laid down. The discussion of the break up and marks which was to be awarded as per the Policy reads as under:-

“14. After going through the Weightage Point System, Annexure R-2, I find that the assessment has maximum 100 points. Of these, as many as 30 points are for number of dependents. Another 20 points are for amount of family pension being received by the family. Another 15 points are for left over service – the less service remaining, the less points a family is entitled to. Further 15 points are in case widow applies for compassionate appointment. Another 10 points are if family is staying in rented house or they have their own house. Only 10 points of the total 100 points are for the amount of terminal benefits received by the family. There is also a system of award of negative points based on whether there is a earning member in the family and whether the request for compassionate appointment is submitted belatedly i.e. after 5 years.

15. Thus, I find that all the considerations while making assessment of the indigent condition in the Weightage Point System are relevant and have been duly taken into account. Only 10 points out of total 100 points are for terminal benefits received by the family. Such benefits cannot be totally ignored while taking a

decision regarding whether the family is really in indigent condition and whether the family deserves to be granted compassionate appointment. These are a relevant consideration for deciding indigent condition of the family. Hence, I do not consider it all correct to say that the terminal benefits granted to the family should not be taken into consideration while assessing the indigent condition of the family. These benefits – though one time payments by their very nature – are still relevant to assess whether family is in financial destitute and whether it can get over the emergency or not. Hence, this is clearly a relevant criterion and cannot be ignored for consideration of the compassionate appointment.”

It was also noted that the Allahabad Bench of the Tribunal had already upheld this system to be more objective, as it brought a yardstick in the measurement of indigency. The factum of compassionate appointment being limited to 5% of the vacancies for direct quota and the most deserving persons were liable to be chosen was kept in mind by the Tribunal. It thus, approved that the department had prescribed cut-off marks below which cases were not to be recommended for consideration by the Committee. In the absence of any malafide as such of the Circle High Power Committee in considering the case for compassionate appointment, the application filed by the applicant-petitioner was dismissed.

It is settled principle that there is no vested right for compassionate appointment and it is not a normal mode of recruitment and only 5% of the posts are being prescribed for appointment by way of compassionate basis. In the present case, petitioner's case was duly considered after the employee had expired on 19.06.2014, while working as regular Mazdoor in the respondent department.

The Tribunal had noticed how the Weightage Points are to be awarded as such and

it was uniformly applied to all, in the assessment of indigent condition of the family, who had applied for appointment on compassionate ground.

The argument which has been being raised by learned counsel is that the terminal benefits as such has also been considered and was one of the ground for rejection for the appointment on compassionate basis, and could not have been done so.

A perusal of clause 5 of the terminal benefits of Weightage Point System for assessment of Indigent Condition would go on to show that the dependents are given maximum points up to 10, if the terminal benefits are only up to ₹1.00 lac. If the terminal benefits are over 10 lacs then no points are to be awarded. The said rule is applicable to all persons who are applying for appointment on compassionate ground and thus, the arguments raised by the counsel that the amount of terminal benefits are not taken into consideration, is without any basis. All the persons applying for compassionate appointment are being assessed through Weightage point System for assessment of their financial condition and the principles of Article 14 of the Constitution of India are being applied as such. The petitioner cannot claim any absolute right of consideration and it is settled position and has been time and again held by the Apex Court that compassionate appointment is an exception to the general rules of appointment and is not an independent source of recruitment. Reference can be made to judgments in *Umesh Kumar Ngpal vs. State of Haryana*, (1994) 4 SCC 138 which has been followed in *Shreejith L. vs. Deputy Director (Education) Keral and others*, (2012) 7 SCC 248 and in *Union of India and others vs. Sima Banerjee*, 2017 (1) RSJ 351.

Keeping in view the settled principle of law, this Court is the considered opinion that the order passed by the Tribunal does not suffer from any illegality or irregularity which would warrant interference under the extra ordinary writ jurisdiction of the Court.

Accordingly, the writ petition is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

April 05, 2022
Ajay

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