

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

CWP-5277-2020 (O&M)

Date of decision: 11.07.2022

Ashok Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Nitin Jain, Advocate,
For the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for setting aside order dated 27.06.2000 (Annexure P-9/A), vide which the claim of the petitioner for compassionate appointment has been rejected on the ground that he did not applied for his appointment within three years of the death of his father.

2. Learned counsel for the petitioner submits that petitioner's father was appointed as PTI on 05.05.1987 on *ad hoc* basis at Government Senior Secondary School Sorkhi, District Hisar. Later on, his services were regularized on 01.01.1991. He died in harness on 16.06.1993, when the petitioner was merely 12 years old. Mother of the petitioner had predeceased his father on 02.12.1990. After the death of parents, petitioner and his elder sister were brought as orphans by others in the family and have been struggling ever since.

3. Petitioner applied for compassionate appointment on 08.06.1995 i.e. within three years of the demise of his father. Thereafter, petitioner received a letter dated 11.09.1996 (Annexure P-3) from the

Office of Director Secondary Education, Haryana vide which petitioner was informed that the Government has issued new instructions whereby the benefit of job/service is to be given within a period of three years and the instructions regarding reserving the post till the applicant attains majority has been withdrawn.

4. Be that as it may, after attaining majority and completing his matriculation, petitioner again approached the Principal, Govt. Sr. Sec. School, Sorkhi, Hisar for grant of compassionate appointment. Application of the petitioner was duly recommended by the Principal. District Education Officer, Hisar, further recommended the case of the petitioner to Director Secondary Education, Haryana vide recommendation dated 18.11.1999 (Annexure P-9). Notwithstanding, vide impugned order dated 27.06.2000 (Annexure P-9/A), respondent No.2 rejected the claim of the petitioner on the ground that he failed to apply for employment within three years of the demise of his father. Hence, the instant petition.

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

6. Perusal of the policy contained at Annexure P-11 reveals that in case of a minor, on attaining his/her age of 17 years, department would have to send complete proposal to the Government within a period of 6 months for being considered the same by the competent authority. It appears that the Principal of the School had favorably recommended the case of the petitioner in terms thereof, when the petitioner approached to seek assistance upon attaining the age of 17 years. The proposal was forwarded to the competent authority, however, vide impugned order, the

same has been cryptically rejected stating that the same is time barred since it was not submitted within 3 years of the death of an employee.

7. Impugned rejection flies in the face of the applicable policy, relevant whereof is extracted hereinbelow:

- i) *It is mentioned in the instructions that the person who is to be provided with the benefit/privilege of giving job/service under grant for privileged person policy, if he is minor, even though the dependents of the deceased would have to submit/send an application to the Government for consideration/decision within a period of 3 years from the death of the deceased as regards giving/granting the said person a job/service. But it is not clarified in the instructions that to the effect that after the death of the deceased, whether only application would have to be submitted/send to the Government within a period of 3 years as regards the dependent who would have to be given job/service under grant for privileged person policy or job/service would also have to be given/granted to him within a period of 3 years. The Government has taken decision that in such type of situation, after the death of the deceased, his dependents would have to submit an application to the Government for giving job/service to the minor dependent(s) within a period of 3 years of the death of the deceased as per the prevalent/current instructions, but when the said minor attains age of 17 years, then at the same time the department would have to send complete proposal as regards his job/service to the Government and the said proposal shall have to be reached/arrived to the Government at any cost within a period of 6 months after attaining the age of 17 years by the said minor, otherwise, the Government should not consider such type of matters at any cost or in any circumstances and the department should be responsible for the same.”*

Having perused the policy, *ibid*, I see no reason why the petitioner's case be not processed in accordance thereof provided he is found entitled to the same, in accordance with law.

8. Accordingly, impugned order is set aside with a direction to the respondents to consider the case of the petitioner to the limited extent of seeking compassionate assistance, as per the policy. During pendency

of writ petition, claim qua the compassionate appointment was in any case given up by him as noted in the order dated 27.02.2020.

9. Needful be done within a period of 3 months from today in accordance with the policy applicable as on the date of death of the petitioner’s father.

10. Disposed of accordingly.

JULY 11, 2022
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No