

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

104

**LPA-317-2020 (O&M)
Date of Decision: 24.08.2022**

VIDYA DEVI

..... Appellant

Versus

STATE OF HARYANA AND ORS

..... Respondents

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

Present : Mr. Manohar Lall, Advocate
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

CM-852-LPA-2020

Exemption application is allowed as prayed for.

CM-851-LPA-2020

This is an application for condoning the delay of 1383 days in filing the appeal preferred on the ground that against the order dated 21.04.2016, the review petition was also filed which was dismissed on 31.01.2020. The LPA was filed thereafter expeditiously in the month of February, 2020 and therefore, sufficient cause is made out to condone the delay as the applicant was pursuing his legal remedy in accordance with law.

Application stands allowed and delay of 1383 days in filing the appeal is condoned.

LPA-317-2020

In the present appeal there is challenge to the order of the learned Single Judge, passed in **CWP No.21016 of 2010 titled as Smt.**

Vidya Devi Vs. State of Haryana, wherein the learned Single Judge,

has not granted the benefit of the relief of compassionate appointment by noting that the appellant's son had attained the age of 17 years on 13.09.2005 and his case was to be considered during 06 months after attaining the age of 17 years till 13.03.2006. It was noticed that the writ-petitioner never applied for compassionate appointment for her son Parveen Kumar at the time he attained the age of 17 years or even till three years thereafter, as the application was made on 30.10.2008 and, therefore, his case could not be forwarded and considered. Reliance was also placed upon the judgment of the Apex Court in **Bhawani Prashad Sonkar Vs. Union of India (2011) 4 SCC 209** that there is no discretion left with any authority to make compassionate appointment and the same has to be made strictly in accordance with the scheme and there was unexplained delay of three years in making the application for appointment of her son after he attained the age of 17 years.

Learned counsel for the appellant has accordingly argued that the deceased had died on 04.10.1993 while working as a Forester and that there were two minor sons at that point of time and the application had been given for compassionate appointment, the same had not been processed as per the policy which was in vogue. Therefore, the action of the respondents asking the appellant to apply again on 30.10.2008 was not justified and they should have processed the case of the minor son.

It is submitted that the speaking order was also passed on 28.03.2013 and the matter was kept open keeping in view the fact that the matter was pending before the Apex Court in view of the challenge raised to the order of the Full Bench of this Court in **Krishna Kumari**

Vs. Haryana Government and others 2012(2) SCT 7.

For the reasons mentioned below, we are of the considered opinion that the claim for compassionate appointment is an exception to the rule of appointment and there is no vested right, the said law has been laid down in clear terms in **Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138** that it is mere a concession and cannot be claimed as a matter of right especially after passage of time. In the present case, as noticed, the date of death is 04.10.1993, the appellant chose not to avail the compassionate appointment for herself at that point of time, but chose to defer her claim on account of the fact that her son would become major. Apparently, the family was not in a state of penury and as such there was no requirement that the appellant could have waited to have postpone the chances of an appointment. Therefore, apparently in our opinion, it is a case where the purpose of compassionate appointment has to be kept in mind since the same is for ensuring that the immediate succor is passed on to the family at the time of the unexpected death as it may face financial distress. However, the same was not the factor, which was available with the family which chose to postpone the appointment at that point of time apparently because it was not suffering from any such disadvantage. Thus, we are of the considered opinion that keeping in view the law settled in the **Union of India Vs. Sima Banerjee, 2017 (1) RSJ 351** and the recent judgment of the Apex Court in '**The Secretary to Government Department of Education (Primary) & others Vs. Bheemesh @ Bheemappa', 2022 (1) SCT 204,** that the principle of appointment on compassionate basis is an exception and the present case, as noticed, it is not a case where the

exception is to be resorted to keeping in view the fact that the family could afford the postponement of the immediate appointment for a period of two and a half decades before it started pursuing the remedy when the minor became major. In such circumstances, we are of the considered opinion that no case is made out for issuance of a writ of mandamus as such for grant of the benefit of the compassionate appointment at this belated stage.

Dismissed.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

24.08.2022
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>