

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Letters Patent Appeal No. 55 of 2022 (O&M)

Date of decision:- 11.07.2022

Rahul Sharma

.....Appellant

Versus

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present:- Mr. Aalok Jagga, Advocate, for the appellant.

Mr. Avinit Avasthi, Assistant Advocate General, Punjab.

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RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This appeal has been filed by the appellant being aggrieved by the order dated 25.01.2021 passed by the learned Single Judge whereby the petition filed by the petitioner (appellant herein) claiming compassionate appointment as well as assailing the order dated 22.06.2020 passed by the respondent-authorities rejecting the petitioner's claim, has been dismissed.

Learned counsel for the appellant submits that father of the petitioner, who was working as a Personal Assistant to the Chairman, Head Office, Pepsu Road Transport Corporation, died while in harness on 10.10.2008. The petitioner thereafter applied for compassionate appointment on 17.12.2008 through his mother as at the relevant point of time he was 17 years old. His claim for compassionate appointment was rejected by the authorities vide order dated 11.02.2016, against which the petitioner had filed a Civil Writ Petition No. 16891 of 2016 before this Court. Vide order dated 19.02.2020 passed in the said writ petition, this Court was of the

opinion that the order dated 11.02.2016 passed by the respondent-authorities suffers from non-application of mind and non-consideration of material facts and therefore, quashed the order directing the respondent-authorities to reconsider the matter and permitting the petitioner to file a fresh affidavit in support of his claim.

Learned counsel for the petitioner submits that subsequent to the orders passed by this Court, the petitioner filed an affidavit before the respondent-authorities on 03.03.2020 (Annexure P-9), whereupon the authorities examined the petitioner's claim and rejected the same vide order dated 22.06.2020 on three grounds, namely, that the petitioner's family was getting pension after the death of his father; that the petitioner's mother was in employment and that the petitioner was also working.

The writ petition filed by the petitioner has been dismissed by the learned Single Judge of this Court taking these aspects into consideration including the decision of the Supreme Court rendered in ***Umesh Kumar Nagpal vs. State of Haryana and others 1994(4) SCC 138*** and ***State of Madhya Pradesh and others vs. Amit Sriwas 2020(10) SCC 496***. Learned Single Judge has recorded a finding that compassionate appointment is not a regular source of appointment and that it is a special mode of appointment devised only to mitigate immediate hardship that a family faces on account of the death of the bread earner of the family. Learned Single Judge taking all these three aspects, referred to above, into consideration, has recorded a finding that the petitioner does not suffer from penury and has therefore, rightly been refused compassionate appointment by the authorities vide the impugned order dated 22.06.2020.

Learned counsel appearing for the petitioner has taken this Court through various documents to contend that the pension received by the family on account of the death of the petitioner's father cannot be a ground to reject his claim for compassionate appointment in terms of the policy and that the petitioner's appointment is not on regular basis as he is a contractual employee and getting a fixed salary. In such circumstances, the order rejecting the petitioner's claim and the order dismissing his writ petition would liable to be set aside and the respondent-authorities would have been directed to appoint the petitioner on compassionate ground.

We have heard learned counsel for the parties at length.

The object and purpose of the policy for compassionate appointments have been clearly mentioned therein by the authorities themselves while framing the policy pursuant to the decision of the Supreme Court rendered in ***Umesh Kumar Nagpal vs. State of Haryana and others*** (supra). It is relevant to reproduce the same to indicate the guidelines on the basis of which the policy has to be interpreted:-

*“This policy was framed on the basis of the judgment of the Hon’ble Supreme Court of India delivered in the case of ‘**Umesh Kumar Nagpal vs. State of Haryana and others 1994(4) SCC 138**. The Apex Court held that the object of compassionate appointments is to enable the penurious family of the deceased employee to tide over the sudden financial crisis and not to provide employment. It was further held that mere death of an employee does not entitle his family to compassionate appointment. The authority concerned must consider as to whether the family of the deceased employee is unable to meet the financial crisis resulting from the employee’s death. The offering compassionate appointments as a matter of course irrespective of the financial condition of the family of the deceased and making compassionate appointments in posts above class-III and IV is legally*

impermissible. The compassionate appointments cannot be granted after a lapse of reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The object being to enable the family to get over the financial crisis which it faces, at the time of death of the sole bread winner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over. It has been considered appropriate that there is need to review the whole policy on compassionate appointments by taking a cue from the policy of Government of India and to impose strict conditions so that compassionate appointments are available only to very deserving cases. Most of the vacancies that are available or accrue in direct quota posts in various departments are consumed by these compassionate appointments considerably reducing vacancies for carrying out recruitments from the open market. This has a direct reflection on the efficiency and working of the departments as it restricts the Government for making selections from a wider choice of candidates. Imposition of a cap on compassionate appointments will also protect the legitimate right of young qualified persons who are waiting for their turn for being recruited in various departments of the Government for years.”

From the aforesaid, it is apparent that the policy was brought in line with the law laid down by the Supreme Court in ***Umesh Kumar Nagpal vs. State of Haryana and others*** (supra), and the same was in existence even at the time of death of the petitioner’s father. Though the learned counsel for the petitioner has taken us through various clauses of the policy to contend that the pension being paid to the petitioner’s family on account the death of his father could not be considered, however, it is observed that even if that aspect is not taken into consideration, the policy required the authorities to determine as to whether the petitioner was in such a dire state of penury on the death of sole bread earner of the family requiring immediate assistance

in the form of compassionate appointment to one of the members of the family. In such circumstances, the fact that the petitioner's mother was in employment was a relevant factor, on this ground alone, the authorities cannot be faulted with to arrive at a finding that the petitioner was not suffering from penury and did not require immediate assistance on the death of his father. The learned Single Judge has further noted the fact that the petitioner's father had expired while in harness on 10.10.2008 whereas the petitioner prayed for re-consideration of his claim for compassionate appointment in the year 2020.

Learned Single Judge relying upon the decision of the Supreme Court in ***State of Madhya Pradesh and others vs. Amit Sriwas*** (supra) has rightly rejected the claim of the petitioner on the ground that the claim for compassionate appointment is not a vested right and gets adversely affected with the efflux of time and cannot be considered at a belated stage as the fact that the petitioner has been able to tide over the adverse circumstances even for a long period of time itself, indicates that he is not suffering from penury.

The respondent-authorities while considering the petitioner's claim for compassionate appointment and rejecting the same vide order dated 22.06.2020 have taken into consideration the fact that the petitioner is not entitled to any benefit under the instructions relating to compassionate appointment as he is self dependent and working on contractual basis with the Punjab State Power Corporation, Gobindgarh. The authority has also taken note of the fact that the petitioner's family is receiving two pensions, namely, on account of the death of the petitioner's father and the second one is being received by the mother of the petitioner. The authorities have also recorded a finding that in such circumstances, it cannot be said that the family is suffering from penury.

In view of the aforesaid, we do not find any illegality or infirmity in the order passed by the learned Single Judge in rejecting the petitioner’s claim and upholding the order passed by the respondent-authorities dated 22.06.2020. The appeal is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

11.07.2022
ravinder

(ARUN PALLI)
JUDGE

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No