

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13024-2019 (O&M)
Date of decision: 19.09.2022

RAHUL RANGA	versus	...Petitioner
THE STATE OF HARYANA AND ANOTHER		...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr.Charanji Lal, Advocate,
for the petitioner.

Mr. R.K.S. Brar, Addl. AG, Haryana.

ARUN MONGA, J. (ORAL)

1. Petition herein, *inter alia*, is for issuance of a writ in the nature of mandamus directing respondent No.2 to give compassionate appointment to the petitioner under the ex-gratia scheme as his father died in harness on 04.12.2001.
2. Succinct facts first. Pledged case is that father of the petitioner was serving as JBT Teacher in the Education department, Haryana. Father of the petitioner expired on 04.12.2001 while in service. Mother of the petitioner predeceased his father on 10.10.1997. Petitioner is/was the only child of his parents. Date of birth of the petitioner is 22.09.1997. He was thus only 4-year old minor at the time of death of his father. At that time, being minor, he could not apply for the compassionate appointment. When he became major, petitioner applied for compassionate appointment on 04.09.2018 with no response on the same. Thereafter, he submitted a representation-cum-legal notice dated 14.03.2019 (Annexure P-14), but yet, to no avail. Hence, the instant petition.
3. I have heard learned counsel for the parties and gone through the case file.

4. Learned counsel for the petitioner strenuously relies upon a Single Bench judgment dated 17.05.2022 rendered in CWP No.23170 of 2018 titled ***Sudhir vs. State of Haryana and others***, wherein speaking for this Court, my learned brother Anupinder Singh Grewal, J. opined as below:

*“The petitioner was only 9 years of age at the time of the death of his father. He, therefore, could not exercise any option with regard to compassionate appointment or payment of ex-gratia amount. The appointment had been sought for the uncle of the petitioner by the grandmother. A perusal of the material on record does not indicate that the guardian had exercised option of ex-gratia amount for the petitioner or his sister. It only indicates that the grandmother of the petitioner had sought appointment for the uncle of the petitioner. Even assuming the guardian of the petitioner had opted for ex-gratia amount instead of compassionate appointment the same would not be binding on the petitioner who was admittedly a minor at that time. A decision for opting for ex-gratia instead of compassionate appointment does not appear to be in the best interest of the child. In any event, it would not be binding upon him. The petitioner after attaining majority had sought appointment on compassionate ground. He had applied shortly after 3 years of attaining majority. Rule 4 stipulates that the dependent of the deceased employee has to apply within three years from the death of the employee. However, this Rule is relaxable in terms of Rule 18 wherein it is stipulated that the claim of the appointment of orphans shall remain alive till the child has attained the minimum eligibility age for entry into government service. Reference can be made to the judgment of the Division Bench of this Court in the case of ***Kumari Bandana Sharma Vs. State of Haryana and others***, CWP No.13465 of 2005, decided on 01.05.2006 wherein the petitioner therein had applied for compassionate appointment after three years of attaining majority. It was held by the Division Bench that the case of the petitioner therein would be considered by relaxing the Rules and without insisting upon the period within which she was required to apply.*

It is indeed a very unfortunate case where the petitioner had already lost his mother. He thereafter lost his father who was in government service when the petitioner was barely 9 years of age. It would, thus, also be equitable that the petitioner be considered for compassionate appointment in terms of the Rules.

Consequently, the petition is allowed. The case of the petitioner would be considered for compassionate appointment in terms of the 2003 Rules. The delay in applying stands condoned. The needful shall be done within two months. In the event of the petitioner being offered appointment on compassionate ground, he would reimburse his share of ex-gratia amount which he had received.”

5. Perusal of the above leaves no manner of doubt that the case of the petitioner is squarely covered both on facts and in law.
6. I see no grounds as to why the petitioner be also not accorded similar benefit. I am in respectful agreement with the above views taken by my learned brother.
7. Respondents are directed to consider the case of the petitioner for appointment on compassionate basis within a period of two months from today.
8. As regards the case of the petitioner *qua* non-disbursement of the GPF of the deceased employee, the same shall also be looked into by the competent authority within the aforesaid period of two months and appropriate order shall be passed in accordance with law, in case the same has already not been disbursed.
9. Instant petition is allowed, accordingly.

(ARUN MONGA)
JUDGE

September 19, 2022
Manju

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