

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

118

CWP No.15285 of 2022 (O&M)
DATE OF DECISION: 18th JULY, 2022

Usha Devi and another

.... **Petitioners**

Versus

Life Insurance Corporation of India (LIC) and others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Abhimanyu Singh, Advocate,
for the petitioners.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing/setting aside of order dated 22.10.2021 (Annexure P-3) passed by respondent No.2, whereby the claim of the petitioners has been rejected, with certain other prayers made in the present petition.

Notice of motion.

Mr. Nitin Thatai, Advocate accepts notice on behalf of the respondents.

The brief facts of this case are that the father of the petitioner No.2 was serving as Record Clerk with the respondents. He expired while in service on 27.09.2021. Thereafter, the petitioners had applied for compassionate appointment for petitioner No.2 with the

respondents. However, the case of the petitioners has been rejected solely on the ground that petitioner No.2 has crossed the age of 30 years. Hence, he has become over-age.

The counsel for the petitioners has submitted that although the policy for appointment contemplates maximum age of 30 years for the son and unmarried daughter and for 45 years for the widow, however, under the service rules there is a specific provision for relaxation or even waiver of the requirement of maximum age of the candidates seeking compassionate appointment. The counsel for the petitioners has relied upon the regulation No.10 of Life Insurance Corporation of India (Staff) Regulations, 1960.

On the other hand, the counsel for the respondents has submitted that the compassionate appointment is covered by specific policy which does not contain any provision for relaxation. The petitioner No.2 has crossed the maximum age of 30 years. Therefore, the case of the petitioners has rightly been rejected.

Having heard the counsel for the parties, this Court finds substance in the arguments of the counsel for the petitioners. In this regard, proviso of the Regulation No.10 of Life Insurance Corporation of India (Staff) Regulations, 1960 is relevant. The same is reproduced below:

“xxxxxxx

Provided further that the Executive Director (Personnel) in respect of appointment to posts in Class-III and Class-IV, Managing Director in respect of appointment to posts in Class-II and Assistant Administrative Officer/Assistant Branch

Manager in Class-I, Chairman in respect of appointment to posts in the cadre of Administrative Officer/Branch Manager or equivalent cadre and the Corporation in respect of appointment to posts in other cadres may relax or waive the limit on upper age wherever necessary.”

A bare perusal of the above said proviso makes it clear that although the maximum age prescribed for compassionate appointment is 45 years in case of a widow of the deceased employee and 30 years in case of son and unmarried daughter of deceased employee, however, the proviso confers power upon the competent authority to relax the maximum age relaxation. In a deserving case, the proviso confers power upon the competent authority even to waive off the requirement of maximum age. Therefore, the respondents were, at least, required to apply their mind and take a conscious decision qua the relaxation of requirement of the maximum age in case of the petitioners. However, there is nothing on record to show that this issue was specifically considered by the competent authorities. Hence, the authorities deserve to apply their mind to the aspect of relaxation of requirement of maximum age in case of the petitioners and then to arrive at a conscious decision thereon.

In view of the above, the impugned orders dated 22.10.2021 and 02.05.2022 (Annexures P-3 and P-5) are set aside. The respondent/competent authority is directed to re-consider the case of the petitioners by specifically applying mind to the aspect of relaxation of the requirement of maximum age qua the petitioner No.2.

Let the entire exercise be carried out within a period of two months from the date of receipt of the certified copy of this order.

The writ petition is allowed in the above said terms.

18th JULY, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

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