

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-23170-2018

DATE OF DECISION: 17.05.2022

SUDHIR

... Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Sandeep Kumar Goyat, Advocate for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

Mr. Rajesh Lamba, Advocate for respondent No.2.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has sought his appointment on compassionate ground on account of death of his father while in service.

Learned counsel for the petitioner contends that the petitioner was about 9 years of age when his father had expired while in service on 05.09.2003. The mother of the petitioner had already expired in the year 1998. He further contends that the petitioner had applied for appointment on compassionate ground after he had attained majority but the respondents have not taken any decision thereof. He also submits that the petitioner is ready to return the *ex-gratia* amount which he had received in the event of his getting appointment on compassionate grounds. He also contends that the case of the petitioner would be covered by the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 (hereinafter referred to as the 'Rules') which is also applicable to the respondent –Bank.

Learned counsel for the respondents states that the case of the petitioner for appointment on compassionate ground was not considered as an *ex-gratia* amount of Rs.2,50,000/- had been disbursed to the petitioner and his sister in the shape of fixed deposits for Rs.1,25,000/- each. He further states that the petitioner had also applied after 3 years of his attaining majority and therefore, his application is also time barred.

Heard.

The petitioner was about 9 years of age when his father had expired while in service. The mother of the petitioner had already expired. The petitioner and his sister were being looked after by their uncle. The grandmother of the petitioner had applied in the year 2003 that the job may be given to the uncle of the petitioner namely Uggarsain. However, no such job had been given to the uncle of the petitioner. The death of the father of the petitioner took place on 05.09.2003. The case of the petitioner for compassionate appointment would be covered by the Rules framed by the respondents on 28.02.2003. In the Rules, it has been set out that the family members of the deceased employee could exercise one of the options. These options are set out hereunder:-

- (i) Ex-gratia appointment on compassionate grounds to a member of the family who was “completely dependent” on the deceased employee and is in extreme financial distress due to the loss of the deceased, namely, the Government employee who dies in “harness”,
- (ii) Ex-gratia compassionate financial assistance to the family of the deceased, over and above all other

benefits like ex-gratia grant due to his family to be paid @ 2.5 lacs, in cases where the family of the deceased does not opt for ex-gratia employment.”

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.

(ANUPINDER SINGH GREWAL)
JUDGE

17.05.2022

SwarnjitS

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No