

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

CWP-20296-2022 (O&M)

Date of decision: October 12, 2022

Sudhir Kumar

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Rakesh Nehra, Senior Advocate with
Mr. Sauhard Singh, Advocate,
Mr. Ankit Yadav, Advocate for the petitioner.

Mr. Pankaj Middha, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing the action of the respondents, conveyed to the petitioner through letter dated 05.07.2018 (Annexure P-6) thereby declining his claim for compassionate appointment.

2. Plead case is that father of the petitioner, namely, Jaipal Singh (deceased) was working on the post of Clerk in the Irrigation and Water Resources Department. On 28.03.2003, father of the petitioner died while in service. State notified the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003 (for short 'Rules of 2003) on 04.03.2003, i.e. 24 days before the death of petitioner's father. Mother of the petitioner moved an application dated 23.04.2003 (Annexure P-2) to the respondent-Department. Said application was approved by the office of Executive Engineer, Irrigation and Water Resources

Department, Construction Division No.30, Gohana on 16.06.2003 and was forwarded to Superintending Engineer, Irrigation and Water Resources Department, Constructions Circle, Sonapat, who also approved the same on 07.07.2003. Petitioner was 17-year old at the time of death of his father. He became eligible to apply for the compassionate appointment within a period of 3 years from the date of death of his father (deceased employee). Thereafter, State Government notified the Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2006 (for short 'Rules of 2006')(Annexure P-4) whereby pending cases under Rules of 2003 were covered under the new Rules of 2006, and choice was being given to the dependents of Government employees whether they want to be covered under the Rules of 2003 or of 2006. Petitioner opted for Rules of 2003. He filed complaint in the CM Window on 21.05.2018 upon which action taken report was received on 02.08.2018 (Annexure P-5) stating that the petitioner was not offered job as right sizing of the jobs in the Department was done and that the petitioner was at Serial No.171 in terms of seniority for appointment. It was also mentioned that petitioner is now covered under the Rules of 2006 and therefore, entitled only for financial assistance. Mother of the petitioner received a letter dated 05.07.2018 (Annexure P-6) from the office of Engineer-in-Chief and she was asked to submit documents for claiming Compassionate Financial Assistance of Rs.2.5 lakh. Petitioner was called for hearing on 25.07.2018. Petitioner filed a complaint in the CM Window on 10.07.2018, upon which action taken report was received on 10.07.2018 (Annexure P-7) stating that petitioner cannot avail the benefit of Rules of 2003. Hence, the present petition.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. Concededly, death of the petitioner's father took place way back on 28.03.2003 on which date though he was only about 16-17 years. He became eligible on 26.06.2003 when he passed his Senior Secondary Examinations. Trite it is to say that compassionate appointment is not to be treated as a reservation of any kind. It is merely benevolent measure undertaken by an employer to ameliorate the immediate penury of family members of a deceased employee, who dies in harness, and the family is visited with sudden and extreme hardship in the given situation where there is no other earning member in the family.

5. That apart there is colossal delay on the part of the petitioner to approach this Court in the year 2022. Concededly, petitioner, who was about 16-17 years of age at the time of death of this father i.e., on 28.03.2003, applied on turning 18 years, no doubt within 3 years of the death, but as long as for 17 years did not take any further action despite his case having not been taken up or decided either way by the Department. Even otherwise, entire delay is completely attributable to the petitioner and/ or his family members. Financial assistance, as per the applicable policy, has already been offered to the mother of the deceased employee.

Death of petitioner's father took place in the year 2003 and now 19 years later it cannot be the case of the petitioner that the sudden poverty with which they were struck in 2003, at this stage, is to be addressed after 19 years by giving compassionate appointment.

6. No grounds for interference are made out. However, to the extent that the widow of the deceased employee was entitled to *ex gratia* compensation, it is expected of the respondents to pass appropriate orders and disburse the amount of Compassionate Assistance in accordance with the policy along with applicable rate of interest payable w.e.f. the date of issuance of letter 05.07.2018 (Annexure P-6) whereby mother (widow) of the deceased employee was asked to attend hearing on 25.07.2018 at 12:30 p.m. in the office of the Engineer-in-Chief, Sinchai Bhawan, Sector-5, Panchkula in respect of compassionate assistance of Rs.2.5 lakh, till payment.

7. Dismissed.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

October 12, 2022

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No