

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

CWP-21199-2022 (O&M)

Date of decision: September 23, 2022

Manish Bhushan

....Petitioner

versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Jitender Malik, 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 impugned order dated 28.02.2018 (Annexure P-12) whereby dependents of deceased employee, including the petitioner, were directed to be present in the office of the respondents along with their documents for getting compassionate financial assistance of Rs.2.5 lakh.

2. Plead case is that father of the petitioner, namely Sh. Gobind @ Govind Ram Kashyap working on the post of Store-Keeper, expired on 15.01.2002 while in service. At the time of death, petitioner's father was 51 years of age. Petitioner, his brother and their grandmother, namely Smt. Chameli Devi filed a civil suit No.494 of 04.10.2004 before learned Additional Civil Judge (Sr. Divn.), Rohtak for grant of service and terminal benefits to them as mother of petitioner i.e. respondent No.4 was living separately in her parental home much prior to the death of petitioner's father.

During pendency of said civil suit, a compromise (Annexure P-3/A) was

effected between the parties and basis whereof, civil suit was withdrawn on 12.12.2018 (Annexure P-3/B). Initially, respondents were requested to appoint Bharat Bhushan, elder brother of the petitioner, but the matter was kept under consideration with the higher authorities. Various requests were made, and thereafter, a representation dated 25.11.2014 (Annexure P-4) was made for grant of appointment to the elder brother of the petitioner, but the same was filed without being taken into consideration. It was informed under RTI that case for compassionate appointment had been sent to the Head Office. Another representation/ reminder dated 17.05.2017 was moved. Petitioner's elder brother filed another representation dated 23.10.2017 (Annexure P-8), but no action was taken. Petitioner preferred CWP-29666-2017, which was disposed of vide order dated 22.12.2017 with a direction to the competent authority among the respondents to decide the representation by passing speaking order within three months. In compliance thereof, respondent No.3 passed the impugned order dated 28.02.2018 (Annexure P-12) whereby petitioner along with other family members was asked to produce relevant documents in the office for availing financial grant of Rs.2.5 lakh. 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 15.01.2002 on which date though he was a minor, but since only one family member was entitled for compassionate appointment at the relevant time, elder brother of the petitioner had applied for the out of turn appointment on compassionate grounds. While the application was pending,

there was family feud amongst the members of the family of the deceased with regard to disbursement of the service benefits and other consequential benefits of the employee dying in harness. Ultimately, there was a compromise amongst the family members, which caused colossal delay of as many as 16 years when for the first time, writ petition was filed by the elder brother of the petitioner in the year 2018 seeking benefit of compassionate appointment. Later on, said writ petition was withdrawn with liberty to re-file the same on the same cause of action by substituting the younger brother seeking the same benefit.

5. Be that as it may, even the petitioner became major in the year 2008 and kept sitting over his right, if any, to seek compassionate appointment and by sheer acquiescence thereof himself contributed to the delay. Trite it is to say that compassionate appointment is not to be treated as a reservation of any kind so as to wake up any time and seek enforcement of any such right arising out of it. 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 are visited with sudden and extreme hardship in the given situation where there is no other earning member in the family. Death of petitioner's father took place in the year 2002 and now 20 years later it cannot be the case of the petitioner that the sudden poverty with which they were struck in 2002, at this stage, is to be addressed after 20 years by giving compassionate appointment.

6. Even otherwise, entire delay is completely attributable to the petitioner and/ or his family members. Department cannot be faulted with.

Vide impugned order challenged herein, financial assistance as per the

applicable policy, has already been offered and petitioner is at liberty to seek disbursement of the same.

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

(ARUN MONGA)
JUDGE

September 23, 2022

mahavir
Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No