

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

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CM No.818-LPA of 2022 in/and
LPA No.1149 of 2021 (O&M)

Date of Decision: April 27th, 2022

Sh. Tirlok Bahadur

...Appellant

Versus

Registrar, Punjab & Haryana High Court, Chandigarh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Navjot Singh, Advocate
for the applicant-appellant.

AUGUSTINE GEORGE MASIH, J.

CM No.818-LPA of 2022

Prayer in this application is for recall of the order dated 06.04.2022 passed by this Court, whereby the appeal of the applicant-appellant was dismissed for non-prosecution because of the non-appearance of the counsel for the appellant.

On considering the pleadings in the application, which is supported by an affidavit, we accept the prayer made in this application for recall of the order dated 06.04.2022 and order restoration of the appeal to its original number.

At the request of the counsel, the appeal is taken up for consideration.

LPA No.1149 of 2021

Challenge in this appeal is to the judgment dated 13.10.2021 passed by the learned Single Judge, whereby the writ petition preferred by the appellant challenging the order dated 01.05.2014 (Annexure P-6) whereby the

appellant was informed that his application for appointment as Peon/ Process Server on compassionate grounds has been considered and rejected by the High Court, has been dismissed.

2. It is the contention of learned counsel for the appellant that the father of the appellant namely Gobind Bahadur was employed as a Daftari/Class-3 employee at Sessions Division, Sangrur since 1983. He unfortunately passed away on 12.12.2011 while in service. Appellant submitted an application dated 04.01.2012 (Annexure P-1) seeking appointment on compassionate grounds. He mentioned in the said application that apart from his mother, he had one brother and a sister. His brother was serving in the Army and the family was finding it difficult to maintain itself after the death of his father. Report dated 14.03.2012 (Annexure P-2) was submitted by the Additional District Judge, Sangrur to the District and Sessions Judge, wherein the case of the appellant for appointment on compassionate grounds was not recommended keeping in view the financial condition of the family. It is in pursuance thereto that the prayer of the appellant for appointment on compassionate basis was rejected on 01.05.2014.

3 Learned counsel for the appellant, on the basis of these facts, submits that elder brother of the appellant who is in Army, has separated from the family and is not supporting financially nor is he looking after them. The financial position of the family is not good and, therefore, the appellant is entitled for appointment on compassionate grounds as he fulfills all the requirements both educational and financial. His submission is that the action on the part of the respondents is discriminatory as another similarly situated person namely Lovepreet Singh, whose father was late

Nirmal Singh and was serving as a Process Server at Barnala, had been appointed on compassionate basis, whereas the appellant has been denied the same benefit, which is unsustainable. He, therefore, prays that the judgment passed by the learned Single Judge as well as the impugned order rejecting the claim of the appellant for appointment on compassionate ground deserve to be set aside and the appellant be appointed as a Peon/Process Server.

4. We have considered the submissions made by the counsel for the appellant and with his assistance, have gone through the pleadings, the impugned order and the judgment passed by the learned Single Judge but do not find ourselves in a position to accept the prayer as has been made by the counsel for the appellant.

5. The admitted facts as are apparent from the pleadings are that the father of the appellant late Gobind Bahadur, who was employed as a Class-3 employee in Sessions Division, Sangrur, passed away on 12.12.2011 leaving behind a widow, two sons and a daughter. Appellant is the second son who is seeking appointment on compassionate grounds as per the Punjab Government Instructions issued from time to time. His application dated 04.01.2012 for appointment on compassionate grounds was duly considered by the District and Sessions Judge, Sangrur, and referred to the Additional District Judge, Sangrur, to examine his eligibility for appointment on compassionate grounds. The learned Additional District Judge, Sangrur, submitted his report on 14.03.2012 (Annexure P-2), wherein it was found that the family was financially well off and were not in a difficult position to sustain themselves. Not only this, a second inquiry was conducted by the Additional District and Sessions

Judge, Sangrur, who vide report dated 01.05.2013 again came to the same conclusion that the appellant is not entitled for appointment on compassionate grounds.

6. It would not be out of way to mention here that it is an admitted position that the elder brother of the appellant is serving in the Indian Army, although it has been said that he has not supported his other family members but the factum that his elder sister who is staying with them, on clearing her graduation in 2009 and at the time when he had applied for appointment on compassionate grounds, was working as a teacher at Saraswati School is also admitted. It is also not denied that a cemented (*pucca*) residential house has been constructed in which the appellant along with his mother and sister are residing. The records and the two reports of the Additional District and Sessions Judge, Sangrur, as referred to above, indicate that the family was not in dire straits and pecuniary status which would justify appointment of the appellant on compassionate grounds.

As per the instructions of the Government of Punjab as also the judgment of Hon'ble Supreme Court in ***Umesh Kumar Nagpal Versus State of Haryana and others 1994 (3) SCT 174***, it is apparent that the object of granting compassionate employment is to enable the family of the deceased employee to tide over the sudden crises which it faced because of the untimely, sudden death of the bread earning member of the family, so that the family is safe from the financial destitution. The benefit as has been claimed cannot be granted at a stage where there is no such crisis or the crisis is over.

This being the factual position which has been rightly observed and dealt with by the learned Single Judge, the claim of the appellant for

appointment on compassionate basis cannot be said to be wrongly rejected by the competent authority vide order dated 01.05.2014.

7. As regards the contention of the counsel for the appellant that the appellant has been discriminated against and reference of another person, who has been appointment on compassionate grounds i.e. Lovepreet Singh is concerned, suffice it to say that each case is dependent upon the peculiar facts and circumstances of the case especially upon the financial status of the family. In the absence of the details in this regard relatable to the family of the Lovepreet Singh, it would be difficult to accept the contention of the counsel for the appellant. Mere assertion that the appellant is similarly placed as the above referred to person who has been appointed on compassionate grounds, would not be enough to come to a conclusion with regard to discrimination, especially when the said aspect is denied by the respondents.

8. In view of the above, finding no merit in the present appeal, the same stands dismissed.

9. In the light of the dismissal of the appeal, pending application stands disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 27th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No