

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

CWP No. 29084 of 2022
Date of Decision: 16.12.2022

Charanjit Kaur

.....Petitioner(s)

Versus

Central Administrative Tribunal, Chandigarh Bench and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Karnail Singh, Advocate,
for the petitioner.

Ms. Jyotika Panesar, Advocate,
for Mr. Arvind Moudgil, Standing Counsel,
for Union of India.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed under Article 226 of the Constitution of India against the order dated 07.12.2018 (Annexure P.1/1) passed by the Central Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal') whereby, O.A. No. 060/1229/2017 was dismissed whereby the relief of compassionate appointment was being sought. Challenge has also been raised to the subsequent order passed on 16.07.2019 (Annexure P.1/2) whereby, the review application was dismissed.

Counsel for the petitioner has vehemently submitted that the petitioner is a divorced daughter as such of the deceased-employee, who passed away on 21.10.2010 and there was a Panchayati Divorce dated 15.03.2007, on the basis of which, she had subsequently filed a petition under Section 13 of the Hindu Marriage Act, 1955 also on 16.10.2010 and a divorce was granted on 23.08.2011 (Annexure A-3). It is, thus, submitted that rejection by the authorities as such on two occasions i.e. on 16.02.2015

(Annexure A-4) and thereafter on 11.08.2017 (Annexure A-6) was not

justified. It is thus submitted that the Tribunal as such also did not appreciate this fact that she was entitled for compassionate appointment being dependant upon the deceased government employee and living with her.

Firstly, we are of the considered opinion that the petition is liable to be dismissed on the ground of delay and laches as admittedly, the review application was dismissed on 16.07.2019 and the present petition has only been filed on 22.11.2022, after a period of more than 3 years. A justification has been given that the counsel who was appearing in the review application expired during Covid-19 pandemic and it was on account of that, the delay has taken place.

In such circumstances, we proceed to decide the case on merits also and are of the considered opinion that the order of the Tribunal as such is well justified. The Tribunal noticed that a speaking order dated 11.08.2017 was passed and the lady employee had left behind two sons and three daughters, who were all married. There was nothing to show that claimant was a family member of the deceased and dependant upon her and the Panchayat Nama was submitted only on 19.07.2010, after the death apparently to get over the hurdle that married daughters are not entitled for compassionate appointment. The divorce petition had also been filed on 16.10.2010 and decreed on 23.08.2011 on *ex parte* basis and the husband never contested the case. The educational qualifications to get employment were also as such which did not inspire any confidence in the Tribunal in as much as firstly, the certificate of 8th class was found forged. Then the certificate of 10th class was produced, which was from another institute which was not recognized. Resultantly, the third certificate which is dated

14.12.2012 (Annexure P-2) was produced from a Board in Madhya Pradesh wherein she had passed the secondary school examination and was enrolled from Madhya Pradesh and the address of Bhind, Madhya Pradesh was given. It is also to be noticed that she had been informed on 18.11.2011 (Annexure A-1) that her certificate of 8th class is not genuine and 10th class certificate was not from a recognized Board and she had been advised to apply for the 10th class certificate from a recognized Board then only her application was to be considered.

Apparently, she produced the said certificate within a period of one year though she claims that she is married and having three children as per the averments made in the divorce petition itself which only goes on to show her conduct as such that a desperate attempt had been made to get government employment at any cost. The Tribunal also noticed that legally the Panchayat Nama had no legal sanctity in the eyes of law on the basis of which she claimed that she was already living separately and was divorced and while noticing that the divorce decree was filed after the death of her mother which is also *ex parte*. A perusal of the second order dated 11.08.2017 which was subject matter of challenge on account of the fact that on an earlier occasion the Tribunal had directed reconsideration vide order dated 17.11.2016 would go on to show that the authority has duly applied its mind and got an inquiry conducted which is duly reproduced in the speaking order. It is also noticed that at the first instance, she had filed an affidavit dated 03.06.2010 that she was not dependant upon ex-employee Smt. Gulab Kaur but thereafter changed her stance. The authorities noticed that there was nothing to show that in past she had availed any privilege of being dependant

on her mother. Nothing has come on record that she was residing with her in the form of any document like a ration card etc., which she produced before the authorities to satisfy them that she was dependant on the deceased-employee having been married in 1994 for a period of 16 years before the death of her mother and having raised three children. It has also come on record that the brother also challenged the divorce decree on the ground that it was on the basis of fraud and misrepresentation to grab retiral benefits of the railway employee, though he did not succeed in the Court of Law.

The above background and the events would go on to show that the speaking order was passed considering all the facts and it is settled principle that the appointment on compassionate basis is by way of exception and a concession. The concession which is to be extended should be extended at least to a genuine person and not to the one whose case is based on a very shaky foundation and a person who has not come to the Court with clean hands. Even a perusal of the present writ petition would go on to show that there is an averment made that she had passed her 7th class after getting no objection from her brothers and sisters and applied for compassionate appointment and that she was advised by some official to pass 8th class and get a decree of divorce from competent Court of Law.

It is, thus, apparent that that at all points of time, she in her quest to get the job, has made all efforts for getting a divorce and also obtained forged educational qualifications to satisfy the requirement of the job.

In such circumstances, we are of the considered opinion that the writ Court is not meant to exercise its extra ordinary writ jurisdiction for such kind of persons at least. Resultantly, we do not find any merit in the well

reasoned orders passed by the Tribunal. Accordingly, the present writ petition stands dismissed *in limine*.

(G.S. SANDHAWALIA)
JUDGE

16.12.2022
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	No