

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

CWP-2009-2023 (O&M)

Date of decision: 02.02.2023

Kuldeep Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sanjeev Kumar Arora, Advocate for the petitioner

Mr. D.K.Singal, Addl. AG, Punjab

ANIL KSHETARPAL, J (Oral)

1. The petitioner prays for issuance of a writ in the nature of Certiorari to quash the orders dated 02.08.2022 and 21.12.2022. In essence, the petitioner claims that his request, for appointment on compassionate basis, has been wrongly rejected by the respondents.

2. The relevant facts, in brief, are required to be noticed, which are as follows:-

The petitioner's father (Late Sh.Darshan Singh) had attained the general age of superannuation on 30.04.2014. However, the State Government, on his request/application, he was granted one year extension on two different occasions as per the policy of the State Government. He died on 26.12.2015 i.e during the term of the second extension. The petitioner filed CWP-20704-2016 for his appointment on compassionate basis, which was dismissed in the light of the instructions dated 21.10.2014. Thereafter, the petitioner submitted representations, which have been rejected.

3. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

4. Learned counsel representing the petitioners submits that the right in favour of the petitioner accrued on 26.12.2015 i.e the day on which his father died. He submits that subsequent instructions dated 29.03.2017 shall not be applicable to this case. As per the instructions dated 29.03.2017, if an employee dies during the extended period of service, then, his wards are not entitled to the benefit of compassionate appointment.

5. Learned counsel for the petitioner relies upon the judgment passed by this Court in CWP-20693-2019 titled as '**Ajay Kumar vs. State of Punjab and others**' decided on 12.09.2019 and CWP-24534-2019 titled as '**Gurpreet Singh vs. State of Punjab and others**' decided on 05.09.2019.

6. This Court has considered the submissions and analyzed the arguments of the learned counsel representing the parties. It is well settled that an appointment on compassionate or priority basis is an exception to the general rules of recruitment. It is, in fact, a concession extended by the Government to help the family of its employees, who die in harness. Such a concession does not result in the creation of a right. In fact, certain posts are taken out of the scope of open competition, in order to reserve them for the family members of the deceased employee. Moreover, this concession is in the nature of an immediate relief extended to the family member to tide over the adverse situation. This concession cannot be treated as an

estate. Hence, the argument of the learned counsel representing the petitioner that the right of the petitioner accrued on 26.12.2015, has no substance.

7. From the reading of the judgments passed in **Ajay Kumar’ case (supra)** and **Gurpreet Singh’s case (supra)**, it is evident that these writ petitions were disposed of, without commenting upon the merits of the case, with a direction to the respondents to pass appropriate fresh orders in the matter. In these circumstances, the aforesaid judgments do not lay down any ratio decidendi. It is nowhere held that the policy instructions dated 29.03.2017 would not operate with respect to the pending applications.

8. Moreover, as of now, the petitioner is nearly 41 years of age. Hence, no ground is made out for the Court to exercise its extraordinary writ jurisdiction in the present case.

9. Dismissed.

10. All the pending miscellaneous applications, if any, are also disposed of.

02.02.2023

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE