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2023:PHHC:105067

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

**CWP-3492-2022
DECIDED ON:01.08.2023**

BIMLA DEVI

.....PETITIONER

VERSUS

UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Shivam Malik, Advocate for the petitioner.

Mr. Sehej Sandhawalia, Advocate for respondents.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India seeking directions to the respondents to release the amount to the tune of Rs. 2,50,000 as financial Assistance As per Haryana Compassionate Assistance to the Dependents of Deceased Government Employee's Rules, 2003 with 18% interest per annum on account of death of the only bread earner of the family.

2. Learned counsel for the petitioner contends that husband of the petitioner was appointed as Assistant Line Man on 30.10.2000 and has expired due to electric accident occurred on duty. Thereafter, petitioner applied for compassionate appointment for her son namely Sunil Kumar as per ex gratia policy applicable at the time of death. In the meantime on 28.02.2003, the State Government introduced Haryana Compassionate Assistance to the Dependents of Deceased Government Employee Rules, 2003 and decided to give ex gratia appointment or lump sum ex gratia financial assistance of Rs.2.5 lakhs to the family

of the deceased Government employee, if the appointment could not be given due to any reason.

3. He further contends that that the son of the petitioner made several representations but the respondents kept on avoiding the matter on one pretext or other.

4. Learned counsel for the respondents has asserted that the family pension was released to the petitioner vide PPO No. 125, dated 04.05.2001, as is evident from Annexure R-1. It is further asserted that a civil suit filed by the son of the petitioner for grant of relief of compassionate appointment under ex-gratia scheme already stands dismissed vide judgment dated 31.08.2013 (Annexure R-1) and 09.08.2017 (Annexure R-3). He further assists the court by referring to his written reply wherein it has been specifically stated in para 3 that the petitioner approached the respondents on 05.08.2020 for the grant of financial assistance and due some lacuna in the application the same could not be processed and the same was intimated to the petitioner in the same year. Moreover the petitioner submitted her affidavit dated 27.04.2022 in the office of respondent on 29.04.2022 and thereafter by doing required formalities respondents authorities handed over the cheque dated 26.07.2022 amounting to Rs.2,50,000 to the petitioner, thus there is no delay on the part of the respondents and petitioner is not entitled for any interest as claimed by her in the present petition.

5. Heard learned counsel for respective parties.

6. That a provision for compassionate appointment makes a departure from the general provisions providing for appointment to a post by following a particular procedure of recruitment. Since such a provision enables appointment being made without following the said procedure, it is in the nature of an exception to the general provisions and must be resorted to only in order to achieve the stated

objectives, i.e., (i) to enable the family of the deceased to get over the sudden financial crisis. (ii) Appointment on compassionate grounds is not a source of recruitment.

7. The reason for making such a benevolent scheme by the State or the public sector undertaking is to see that the dependants of the deceased are not deprived of the means of livelihood. It only enables the family of the deceased to get over the sudden financial crisis. Since, compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependants of the deceased Government employee as a consequences of his death, a claim for compassionate appointment may not be entertained after lapse of of considerable period of time, since the death of the employee.

8. In *Umesh Kumar Nagpal vs. State of Haryana, (1994) 4 SCC 138*, the Apex Court observed that the object of granting compassionate employment is to enable the family of a deceased government employee to tide over the sudden crisis by providing gainful employment to one of the dependants of the deceased who is eligible for such employment. Mere death of an employee in harness does not entitle his family to such source of livelihood; the Government or the public authority concerned has to examine the financial condition of the family of the deceased and only if it is satisfied that but for the provision of employment, the family will not be able to meet the crisis, that a job is to be offered to the eligible member of the family, provided a scheme or rules provide for the same. This Court further clarified in the said case that compassionate appointment is not a vested right which can be exercised at any time after the death of a government servant. The object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, compassionate employment cannot

be claimed and offered after lapse of considerable amount of time and after the crisis is overcome.

9. Coming back to the present case in hand wherein the petitioner has been paid all the benefits including pension as well as financial assistance of Rs. 2,50,000 which she is claiming through this petition stands paid to the petitioner. The another prayer regarding the interest part which she is claiming hold no ground to be allowed as respondents authorities have specifically sated that the delay is on the part of the petitioner in approaching respondents. Also, the principle underlying the post of compassionate appointment is to meet the immediate financial hardship faced by the family of the deceased employee which in present case to the mind to court is not there as husband of the deceased passed in 2000 and ever since the petitioner had survived with the living standards.

10. In view of the above observation made and in light of the judgment rendered by Supreme Court in *Civil Appeal No. 8842-8855 of 2022 titled as State of West Bengal vs. Debabrata Tiwari and Others*, wherein the same principle as was held in Umesh Kumar Nagpal's case (supra) has been reiterated that compassionate appointment/ financial Assistance is not a vested right to be claimed under Article 226/277 of the Constitution of India and if it needs to be claimed then it has to be made to the appropriate authorities within the reasonable time without there being any delay or laches on the part of the petitioner.

11. Petition stands dismissed being devoid of merits.

(SANDEEP MOUDGIL)
JUDGE

27.07.2023
Meenu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No