

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

CWP-5515-2023 (O&M)

Date of decision: 17.03.2023

Harinder Singh

....Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Labh Singh Sandhu, Advocate for the petitioner
Mr. Vishnav Gandhi, DAG, Punjab

ANIL KSHETARPAL, J (Oral)

The petitioner, who is aged about 39 years, prays for the issuance of a writ in the nature of Certiorari to quash the order passed on 27.09.2022, while rejecting his request for compassionate appointment in place of his father, who died in harness on 01.11.2014. Admittedly, when petitioner's father died, his mother was already in service. Moreover, on the request of the petitioner, a report was sought and the Superintending Engineer, after examining the report, declared on 14.11.2017 that the petitioner is not eligible for appointment on compassionate basis. Furthermore, it has been found that the petitioner owns a house already.

In a recent judgment passed in C.A-8842-8855/2022 titled as **State of West Bengal vs. Debabrata Tiwari and others etc. etc.**, decided on 03.03.2023, the Supreme Court, after considering the entire case law, has laid out the following tests, before the Court issues the direction to appoint a person on the compassionate basis:-

“7.2. On consideration of the aforesaid decisions of this Court, the following principles emerge:

i. 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., 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. 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.

iii. Compassionate appointment is not a vested right which can be exercised at any time in future. Compassionate employment cannot be claimed or offered after a lapse of time and after the crisis is over.

iv. That compassionate appointment should be provided immediately to redeem the family in distress. It is improper to keep such a case pending for years.

v. In determining as to whether the family is in financial crisis, all relevant aspects must be borne in mind including the income of the family, its liabilities, the terminal benefits if any, received by the family, the age, dependency and marital status of its members, together with the income from any other source”

Moreover, approximately, more than 8 years have elapsed.

Hence, this Court does not find it appropriate to issue any direction.

Dismissed.

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

17.03.2023

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Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No

(ANIL KSHETARPAL)
JUDGE