

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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LPA-745-2023 (O&M)

Date of Decision: 09.08.2023

Amarjit Singh

...Appellant

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Mitul Singh Rana, Advocate for the appellant
Mr. Arjun Sheoran, DAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

CM-1926-LPA-2023

Through the instant application, the applicant/appellant is seeking condonation of delay of 37 days in re-filing the accompanying appeal.

For the reasons assigned in the application, which is duly supported by an affidavit, the same is allowed and delay of 37 days in re-filing the accompanying appeal is hereby condoned.

CM stands disposed of.

CM-1927-LPA-2023

Through the instant application, the applicant/appellant is seeking permission to place on record Annexures A-1 & A-2.

For the reasons set out in the application, the same is allowed. Annexures A-1 & A-2 are taken on record subject to just exceptions. Registry is directed to tag the same at appropriate place.

CM stands disposed of.

CM-2692-LPA-2023

Through the present application, the applicant/appellant is seeking permission to place on record Annexure A-3.

For the reasons set out in the application, the same is allowed. Annexure A-3 is taken on record subject to just exceptions. Registry is directed to tag the same at appropriate place.

CM stands disposed of.

LPA-745-2023

1. The appellant through instant intra court appeal is seeking setting aside of order dated 14.02.2023 whereby learned Single Judge has dismissed civil writ petition of the appellant.

2. Brief facts of the case which are necessary for the adjudication of the present appeal are that the father of the appellant who was serving as Steno-Typist with Deputy Commissioner, Amritsar-respondent No.3 passed away on 06.04.2016 while in service. The appellant at that point of time was 23 years old. The appellant preferred an application dated 10.08.2016 (Annexure P-1) to respondent No.3 seeking appointment on compassionate ground. The application came to be rejected vide order dated 04.12.2020 (Annexure P-9). Feeling

aggrieved from the said order, the appellant preferred CWP No.2972 of 2023 before this Court which came up for consideration before learned Single Judge who vide impugned order dated 14.02.2023 has dismissed the writ petition on the ground that compassionate appointment is for the families who are left with no source of immediate income. The policy of compassionate appointment is not applicable in a case where any of the member of the family of the deceased employee is an employee and in the present case, concededly, mother of the appellant was employed in the Health Department at the time of death of the deceased employee.

3. Mr. Mithul Singh Rana, learned counsel for the appellant *inter alia* contends that family of the appellant spent more than Rs.20 Lacs on the treatment of deceased employee. The mother of the appellant addressed a letter to Deputy Commissioner, Amritsar- respondent No.3 disclosing medical expenses incurred on the treatment of her husband. Deputy Commissioner, Amritsar sent a letter to higher authorities confirming that the case of the appellant is covered by appointment scheme & guidelines issued by the State Government. Despite poor financial condition of the family of the appellant, the respondent has declined request of the appellant seeking compassionate appointment.

4. We have heard arguments of learned counsel for the appellant and perused the record with his able assistance.

5. The conceded position emerging from the record is that father of the appellant died on 06.04.2016 while he was in service. The

appellant preferred writ petition before this Court in 2023. There is scheme of the State Government for compassionate appointment and as per the said scheme, the dependent member of the family of the deceased government employee, who died in harness, is entitled to appointment on compassionate grounds.

6. The State Government vide notification dated 21.11.2002 (Annexure A-3) has framed scheme for compassionate appointment. In the said scheme, it has been noticed that there is need to review the policy on compassionate appointment and impose strict conditions so that compassionate appointments are available only to very deserving cases. Most of the vacancies that are available on accrue in direct quota posts in various departments are consumed by these compassionate appointments, considerably reducing vacancies for carrying out recruitments from open market. This has a direct reflection on the efficiency and working of the departments.

7. In the scheme, in following eventualities, family members have been considered as eligible:-

“(1) A dependent member of the family of a person (bread-winner) killed or 100% physically disabled in terrorist action or by security forces acting in aid of civil power, in the State.

(2) A dependent member of the family of the deceased Government employee, who dies in harness.

(3) Disabled Ex-Servicemen (fit for Civil Service)

(4) A dependent member of the family of the Defence Services personnel;

(i) Killed in service, while performing duties; or

(ii) Who are severely disabled and totally unfit for re-employment.”

8. Paragraph 6 of the scheme deals with eligibility criteria. It provides that a family which is indigent and deserves immediate assistance for relief from financial destitution is eligible. Paragraph 6 of the said scheme reads as under:-

“6. Eligibility

(a) The family is indigent and deserves immediate assistance for relief from financial destitution. The authority concerned must consider as to whether the family of deceased employees is unable to meet the financial crisis resulting from employee’s death.

(b) Applicant for compassionate appointment should be eligible and suitable for the post in all respects under the provisions of the relevant Recruitment Rules.”

9. From the perusal of above quoted paragraphs, it is quite evident that intent and purport of the scheme is to grant compassionate appointment to a family which is facing financial destitution on account of death of bread earner of the family. The object of policy is not to extend indirect employment whereas object is to tide over the family from immediate crisis. Even otherwise, compassionate appointment is

considered as an exception to general rule of appointment and provision has been made to help the bereaving family to tide over the crises.

10. Hon'ble Apex Court in ***Umesh Kumar Nagpal Versus State of Haryana; (1994) 4 SCC 138***, has held that appointment on compassionate ground is a concession and cannot be claimed as a matter of right especially after passage of substantial time. The relevant extracts of the said judgment read as:-

“2. The question relates to the considerations which should guide while giving appointment in public services on compassionate ground. It appears that there has been a good deal of obfuscation on the issue. As a rule, appointments in the public services should be made strictly on the basis of open invitation of applications and merit. No other mode of appointment nor any other consideration is permissible. Neither the Governments nor the public authorities are at liberty to follow any other procedure or relax the qualifications laid down by the rules for the post. However, to this general rule which is to be followed strictly in every case, there are some exceptions carved out in the interests of justice and to meet certain contingencies. One such exception is in favour of the dependants of an employee dying in harness and leaving his family in penury and without any means of livelihood. In such cases, out of pure humanitarian consideration taking into consideration the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made in the rules to provide gainful employment to one of the dependants of the deceased who may be eligible for such employment. The whole object of granting compassionate employment is thus to enable the family to tide over the

sudden crisis. The object is not to give a member of such family a post much less a post for post held by the deceased. What is further, 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 it is 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. The posts in Classes III and IV are the lowest posts in non-manual and manual categories and hence they alone can be offered on compassionate grounds, the object being to relieve the family, of the financial destitution and to help it get over the emergency. The provision of employment in such lowest posts by making an exception to the rule is justifiable and valid since it is not discriminatory. The favourable treatment given to such dependant of the deceased employee in such posts has a rational nexus with the object sought to be achieved, viz., relief against destitution. No other posts are expected or required to be given by the public authorities for the purpose. It must be remembered in this connection that as against the destitute family of the deceased there are millions of other families which are equally, if not more destitute. The exception to the rule made in favour of the family of the deceased employee is in consideration of the services rendered by him and the legitimate expectations, and the change in the status and affairs, of the family engendered by the erstwhile employment which are suddenly upturned.”

11. From the perusal of above-cited judgment as well as perusal of scheme framed by the State Government, it is evident that object of

destitution and penury. The object is not to fill up vacancy from indirect mode which is otherwise impermissible.

12. In the case in hand, the father of the appellant died in the year 2016 and at that point of time mother of the appellant was in service. As mother of the appellant was in Government Service, it cannot be concluded that there was no source of income of the family and there was possibility of being driven to destitution. Further, a period of 7 years from the date of death of employee has already passed away.

13. In view of the fact that mother of the appellant was in Government Service at the time of death of deceased employee and a period of 7 years from the date of death has elapsed, this Court does not find any ground to interfere with the impugned order dated 14.02.2023 passed by learned Single Judge. The appeal being bereft of merit deserves to be dismissed and accordingly dismissed.

(ARUN PALLI)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

09.08.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>