

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

LPA No.416 of 2023 (O&M)

Date of Decision: 18.04.2023

Harinder Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Labh Singh, Advocate for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 17.03.2023, vide which the writ petition preferred by the appellant assailing the rejection of his claim for appointment on compassionate grounds has since been dismissed.

Learned counsel for the appellant submits that father of the appellant, who was employed as Head Draftsman with the Water Supply & Sanitation Department, died in harness on 01.11.2014. The deceased was succeeded by his wife, son (appellant) and a daughter. It is submitted that the Committee constituted by the department to examine and verify the claim of the appellant, vide its report dated 14.11.2017, concluded that as mother of the appellant was employed at the time of death of her husband and the family owned and possessed a house, the appellant was ineligible to seek appointment on compassionate grounds. However, for certain material discrepancies, as regards the financial status and the circumstances the family was faced with, were found in the report dated

14.11.2017 (ibid), a fresh report was sought from the Committee. But, he asserts that even though a fresh report dated 16.08.2019 (Annexure P-20) was furnished, the authorities, mechanically and ignoring the said report, rejected the claim of the appellant on the basis of the earlier report.

We have heard learned counsel for the appellant and perused the records.

Concededly, wife of the deceased (Usha Walia) was in government service at the time of death of her husband. The house owned by the deceased, which was in occupation/possession of his family, was inherited by the appellant along with the other two heirs. The appellant was 31 years old and his sister (Parminder Kaur) was 29 years of age, when their father passed away. Upon being pointedly asked, learned counsel for the appellant failed to show, if the report dated 14.11.2017 (ibid), suffered from any discrepancy or the factual position narrated therein was incorrect. Rather, it appears that even before the said report was submitted, the appellant vide another application/representation dated 06.11.2017 (P-9), moved the authorities and managed to have the matter remitted to the Committee for a fresh report. Be that as it may, even the subsequent report would show that mother of the appellant was in government service at the time of death of the deceased and he (appellant) inherited the house owned by his deceased father. Therefore, it appears that authorities upon considering all the attending circumstances and the position that existed on record, rejected the claim of the appellant. Thus, just because the report dated 14.11.2017, was referred or relied upon while passing the impugned order dated 27.09.2022, would not advance the

cause of the appellant a bit.

Though, the void, the appellant and his mother had to bear with upon death of Nauratan Singh Walia, could never be filled. But, analysing the position from a limited standpoint of considering a claim for appointment on compassionate basis, the factors that would assume significance are: A period of 8 ½ years have gone by, post death of the deceased. Mother of the appellant was already employed in government service at the time of death of her husband. Albeit, she was slated to retire on 28.02.2017 but owing to an extension granted by the department she served till 28.02.2018. And she was/is drawing pension. The appellant who was 31 years of age on 01.11.2014, when his father passed away, is 40 years of age today. Likewise, the daughter of deceased who was 29 years old and already married, when her father died, would be 38 years of age. The appellant possessed three years diploma in Mechanical Engineering, as claimed by him in his application dated 23.12.2014, submitted to the authorities. The record shows that he is married and has two grown up children. In the given circumstances, the possibility of his being gainfully employed or engaged in some profitable avocation cannot be ruled out. It would be apposite, at this stage, to refer to the observations recorded by the Supreme Court in **The State of West Bengal Vs. Debabrata Tiwari & Ors. etc. etc. (Civil Appeal Nos. 8842-8855 of 2022)**, dated 03.03.2023, which read thus:

“7.5. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the

view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee”.

The position of law is settled that purport and intent to afford an employment on compassionate grounds is to mitigate the unforeseen crisis or an emergency the family is faced with, owing to the sudden demise of the deceased employee and to secure his family from any financial destitution. Furthermore, appointment on compassionate basis is not an alternate source of recruitment.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

18.04.2023
Manoj Bhutani

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