

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

**LPA-594-2023(O&M)
Date of decision: 10.05.2023**

Ankush

... Appellant

Versus

State of Punjab and others

... Respondents

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

Present: Mr. Atul Goyal, Advocate, for the appellant.
Mr. Arjun Sheoran, Deputy Advocate General, Punjab.

RAVI SHANKER JHA, C.J. (Oral)

1. This appeal has been filed by the appellant being aggrieved by order dated 03.03.2023, passed in CWP-4670-2018, whereby the appellant's petition praying for quashing communications dated 27.03.2017 & 20.11.2017, keeping his claim for compassionate appointment pending, has been dismissed by the learned Single Judge only on the ground that 7 years have elapsed since the death of the bread-winner and, therefore, nothing survives for adjudication.

2. Having heard the learned counsel for the parties at length, we are constrained to observe that the present case is one where the appellant's father died in harness on 05.01.2016 and thereafter the appellant immediately applied on 18.01.2016, for being granted compassionate appointment on the post of Clerk. Admittedly and undisputedly, the application of the appellant was kept pending by the respondent-authorities on account of pendency of Special Leave Petition (C) Nos.19807-19808 of

2012, wherein the issue of validity of the degree issued by the institution from which the appellant had obtained the same was under consideration. As the appellant's claim was not considered by the authorities, he filed Civil Writ Petition No.4670 of 2018, praying for quashing communications dated 27.03.2017 & 20.11.2017, whereby the appellant was informed that his application for compassionate appointment could not be processed any further on account of pendency of the matter before the Supreme Court. In the said petition, on 22.04.2022, this Court passed the following order:

“During the course of hearing, learned State counsel on instructions from Jagdish Vinayak, SDO Water Supply and Sanitation Department, apprised the Court that in view of pendency of SLP (C) Nos. 19807-19808 of 2012 before the Hon’ble Supreme Court, the case of petitioner for consideration on compassionate ground was kept pending in the meeting held on 15.11.2017 and till date, no final decision has been taken in the matter.

Today, parties were *ad-idem* that above SLP has already been decided by Hon’ble Supreme Court on 03.11.2017.

In view of above, learned State counsel seeks time to have instructions for taking further action by the concerned quarter.

Posted on 11.07.2022.”

3. Thereafter, on 11.07.2022, the learned counsel appearing for the State sought further time to seek instructions pursuant to the previous order passed by the Court. On 19.12.2022, learned Deputy Advocate General appearing for the State made a statement before the Court that the matter is under consideration and the necessary exercise shall be completed within

eight weeks as the Supreme Court decision has already come in the matter upholding the degree of the appellant on 03.11.2017. On 01.03.2023, this Court passed the following order:

“The petitioner prays for issuance of a writ in the nature of certiorari to quash the order passed on 27.03.2017, while rejecting petitioner’s request for appointment on the post of Clerk on compassionate basis. He claims that as per the instructions issued by the Government, he is entitled to be appointed in place of his father, who died on 05.01.2016.

The attention of the learned counsel representing the petitioner has been drawn to the judgment passed in ‘Umesh Kumar Nagpal Versus State of Haryana and others, 1994(4), SCC 138.

Learned counsel representing the petitioner prays for a short accommodation to assist the Court.

Adjourned to 03.03.2023.

To be listed in the urgent list.”

4. However, when the matter was ultimately taken up by the Court on 03.03.2023, the petition was dismissed on the ground that 7 years from the death of the appellant’s father had elapsed.

5. From a perusal of the above, evidently the facts that the appellant had applied promptly after the death of his father seeking compassionate appointment; and that the matter was kept pending by the authorities only on account of the Special Leave Petition was pending before the Supreme Court, which was decided on 03.11.2017; and thereafter for considering the effect and impact of the Supreme Court judgment, without taking any decision in that regard, this Court repeatedly gave opportunities to the respondent-State on its request to consider and take a decision on the

application of the appellant, have not been considered while dismissing the writ petition. Learned counsel for the appellant has placed reliance on the decision of the Supreme Court, rendered in **Malaya Nanda Sethy v. State of Orissa and others**, 2022 SCC Online SC 684, to contend that the appellant had applied promptly but the delay was on the part of the respondent-State. And, in such circumstances, as the appellant had promptly approached the authorities, he cannot be non-suited for the delay on the part of the respondents. Evidently, all these aspects and intervening events have not been taken into consideration by the learned Single Judge while deciding the matter. However, it is also an admitted and undisputed fact, which is again reiterated by the learned Deputy Advocate General appearing for the State before this Court today, in the present appeal, that the matter was and is still pending before the authorities and is yet to be finally decided and processed.

6. In the circumstances, we are of the considered opinion that this aspect requires to be considered by the authorities of the State and a conscious decision in respect of the claim of the appellant has to be taken by them in accordance with law.

7. Learned Deputy Advocate General, Punjab fairly submits that in view of the previous order-sheets and the statement made by the State before this Court, the authorities would consider and take a decision on the appellant's application expeditiously, in accordance with law, preferably within a period of three months.

8. In view of the aforesaid, we set aside the order dated 03.03.2023, passed by the learned Single Judge and disposed of the matter

directing the respondent-authorities to take a decision on appellant’s application keeping the aforesaid intervening events in mind and strictly in accordance with law in terms of the statement made before this Court.

Since main appeal itself has been disposed of, no order is required to be passed in CM-1547-LPA-2023.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

10.05.2023
Rajan

Whether speaking / reasoned:	YES/NO
Whether Reportable:	YES/NO