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2023:PHHC:166585

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-12227-2022
DECIDED ON: 05.09.2023

SUSHIL SHARMA

PETITIONER

VERSUS

SARVA HARYANA GRAMIN BANK AND OTHERS

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Hardeep Singh Kasan, Advocate
for the petitioner.

Mr. G.S. Bajwa, Advocate
for respondents No.1 to 3.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Article 226 Constitution of India has been invoked seeking a writ in the nature of *Certiorari* for quashing the impugned orders dated 16.12.2019 and 14.03.2022 (Annexures P-6 and P-12) passed by respondents No.1 and 2 respectively with further direction to appoint the petitioner on compassionate ground.

2. Learned counsel for the petitioner contends that father of the petitioner was appointed as office Attendant at Sondh Branch of respondent-Bank. Who died in harness on 08.12.2018 due to heart attack.

Thereafter, the mother of the petitioner moved an application dated 'Nil' (Annexure P-1) before the respondent No.3 seeking compassionate appointment to her son namely Sushi Sharma stating that she has no source of income and financial conditions of her family is very poor and she is having three daughters and one son, thus, she had prayed that her son be appointed on compassionate ground but the case of the petitioner was not considered by the respondent-Bank.

3. It is further contended that after the death of petitioner's father, all the family members have to live a miserable life. Hence, there was an urgent need for appointment.

4. It has contended by learned counsel for respondents that the petitioner is seeking compassionate appointment while relying upon the policy circulated vide letter dated 04.09.2018, which is not applicable in the present case, as the scheme for compassionate appointment of dependents of the deceased employees retired on medical grounds was withdrawn vide HRDD circular No.43/18 dated 12.11.2018, in view of the instructions received from NABARD vide letter dated 01.11.2018. Later a new policy dated 21.01.2019 is introduced in place of earlier one. It is further contended that the policy which is in existence is policy dated 21.01.2019 and according to which the petitioner was not found eligible for compassionate appointment.

5. No other argument has been raised by either of the parties.

6. Heard learned counsel for respective parties.

7. 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.

8. 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.

9. 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.

10. In view of the above submissions 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 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. Hence, no ground is made out for compassionate appointment/financial assistance, since the basic principle of granting any financial assistance or the compassionate appointment to the family of deceased is to provide help in meeting out hardship on account of untimely death of the father of the petitioner, which accrued in the year 2018. Moreover, an application for compassionate appointment was considered by the respondent-Bank in the light of the policy dated 21.01.2019, which is applicable in the present case and the case of the petitioner has rightly been rejected being not covered under the said policy.

12. In view of the discussions made hereinabove, the present petition stands dismissed being devoid of merits with no order as to costs.

(SANDEEP MOUDGIL)
JUDGE

05.09.2023

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- 1. Whether speaking/ reasoned : Yes / No
- 2. Whether reportable : Yes / No