

248 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.11461 of 2021 (O&M)  
Date of decision : 14.03.2023

Kirandeep Kaur ..... Petitioner

versus

State of Punjab & ors. .... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :- Mr. L.S.Sidhu, Advocate  
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

Mr. Harsh Aggarwal, Advocate  
for respondents No.2 & 3.

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**PANKAJ JAIN, J. (ORAL)**

Challenge is to the order dated 04.12.2012 (Annexure P-10) and that dated 01.09.2020 (Annexure P-15) whereby the claim of the petitioner seeking employment on the compassionate ground stands rejected.

Petitioner is daughter of deceased-Balwinder Singh who was serving as Beldar ME Branch B.R. In Municipal Corporation Ludhiana. He died while in service on 05.09.2012 leaving behind a widow namely Balwant Kaur and two daughters including the petitioner. The petitioner sought employment on compassionate ground. The same was rejected vide impugned order dated 18.12.2012 placed on record as Annexure P-10 on the ground that there is no provision for employment of married daughter as per the guidelines issued by the Government. Thereafter, the petitioner woke up from slumber

only in the year 2019 when her mother-widow of deceased Balwinder Singh also died on 05.09.2019. The representation made by the petitioner was again rejected on the ground that the petitioner being married daughter cannot be construed as dependant family member as per the instructions guidelines issued by State Government.

Learned counsel for the petitioner submits that in view of the law laid down by this Court in ***Amarjit Kaur Vs. State of Punjab & another passed in CWP No.2218 of 2017 decided on 17.01.2020*** the word 'married' already having been struck down being violative of Article 14 of the Constitution of India impugned order dated 01.09.2020 rejecting the claim of the petitioner cannot be sustained. He further relies upon Division Bench judgment of this Court in ***State of Punjab & another Vs. Amarjit Kaur passed in LPA No.462-2021 decided on 25.01.2023*** wherein the view taken by the Single Bench was reiterated and it was held that the claim of a dependant cannot be denied merely for the reason that she is a married daughter.

Per contra Mr. Harsh Aggarwal, Advocate for respondents No.2 & 3 submits that the claim of the petitioner was adjudicated way back in the year 2012 and it was thereafter re-agitated only in the year 2019. The delay itself would be fatal to the claim of the petitioner.

I have heard learned counsel for the parties and have gone through the records of the case.

Without entering into the question as to whether the petitioner being married daughter has been wrongly non-suited or not in the considered opinion of this Court unexplained delay after 2012 is sufficient enough to decline the claim of the petitioner. Trite it is that the compassionate

appointments being antithesis to Article 14 and 16 of the Constitution of India have attained legal sanction only with a particular objective i.e. to tide over the immediate financial distress faced by the family owing to sudden death of an employee. In the present case father of the petitioner died way back in the year 2012. The claim of the petitioner was rejected in the same year. Present petition has been filed only in the year 2021.

Entire case law on the issue has been revisited by Apex Court in ***The State of West Bengal Vs. Debabrata Tiwari & ors. Etc. etc. passed in Civil Appeal Nos.8842-8855 of 2022*** decided on 03.03.2023 to lay down the following principles :-

*“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.”*

Keeping in view the law laid down in *The State of Maharashtra & another Vs. Ms. Madhuri Maruti Vidhate (since after marriage Smt.Madhuri Santosh Koli), (2022) 4 SCT 298* delay being fatal to the case of the petitioner, present writ petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed off.

( PANKAJ JAIN )  
JUDGE

14.03.2023  
Pooja sharma-I

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether Reportable :      | No  |