

CWP-12085-2023

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

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CWP-12085-2023

Date of Decision: 14.09.2023

Rachni Devi

...Petitioner

Versus

Bhakhra Beas Management Board and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. R.S. Mamli, Advocate for the petitioner

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner, through instant petition under Articles 226/227 of the Constitution of India, is seeking setting aside of order dated 27.07.2018 (Annexure P-4) whereby case of the petitioner for compassionate appointment has been declined.

2. Learned counsel for the petitioner *inter alia* contends that husband of the petitioner was working with respondent who passed away in 2012 in harness. The son of the petitioner applied for the compassionate appointment, however, his case could not be considered on account of absence of NOC from other heirs. The petitioner disowned her sons except Wazir Dass. The petitioner again requested the respondent to appoint her son Wazir Dass on compassionate ground, however, respondent vide impugned order dated 27.07.2018 (Annexure P-4) has rejected the application of the petitioner on the ground of delay.

3. I have heard arguments of learned counsel for the petitioner and perused the record with his able assistance.

4. 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.”

5. From the perusal of above-cited judgment, it is evident that object of the scheme is to protect family of the deceased from being driven to destitution and penury. The object is not to fill up vacancy from indirect mode which is otherwise impermissible.

6. From the perusal of record, it comes out that husband of the petitioner passed away on 16.01.2012 and application of the petitioner seeking

compassionate appointment was declined vide order dated 27.07.2018. The petitioner vide order dated 19.07.2023 was granted time to furnish plausible reason for the delay, however, the petitioner has failed to furnish plausible explanation for delay. A period of more than 10 years has passed away from the date of death of husband of the petitioner and a period of more than 5 years has passed away from the date of passing of impugned order. The intent and purport of compassionate scheme is to prevent the family of deceased employee from being driven to destitution and penury. As substantial period has passed away from the date of death of the employee and there is no plausible explanation for the delay in approaching this Court, there seems no reason to interfere. The petition sans merit and deserves to be dismissed. Accordingly, dismissed.

(JAGMOHAN BANSAL)
JUDGE

14.09.2023
Mohit Kumar

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