

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2023:PHHC:134746

CWP-15532-2021
DECIDED ON:24.07.2023

DHAMAN YADAV

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Kumar Yadav, Advocate
for the petitioner.

SANDEEP MOUDGIL (J)

1. The jurisdiction of this court has been invoked under Article 226/227 of Constitution of India for issuance of writ in the nature of *Certiorari* for setting aside the impugned order dated 29.06.2021 (Annexure P-7) vide which the claim of the petitioner for compassionate appointment/financial assistance has been rejected.

2. The brief facts of the case leading to the filing of present petition are that the father of the petitioner namely late Sh. Ram Pal was appointed as accountant by the Government of Haryana in the department of Local Bodies and Urban Development. The father of the petitioner was regular employee of the State of Haryana and he was posted at Municipal Committee, Rewari, Unfortunatly, father of the petitioner expired while in service and he left

behind his wife and one son i.e. the present petitioner who was minor at the time of death of his father. After the death of petitioner's father, as the son was minor therefore, he could not be given the appointment in place of his deceased father. Hence, the mother of the petitioner started receiving financial assistance as per "Haryana Government Compassionate Assistance to the Dependant of Deceased Government Employee, 2006"

3. Learned counsel for the petitioner contends that at the time of death of the petitioner's father in the year 2014, the petitioner was minor and, therefore, was not given the benefit of compassionate appointment. Thereafter, the policy i.e., Haryana Government under Haryana Civil Services (Compassionate Financial Assistance or Appointment) dated 02.08.2019 (Annexure P-3) was enacted and in the meantime, the petitioner became major accordingly, he moved an application for grant of job benefit in place of his deceased father on compassionate grounds under the 2019 Ex-gratia Rules.

4. However, after receiving the application, the respondents did not take any action and the petitioner also made several visits to the office of respondents with a request to consider his application sympathetically, but to no avail.

5. Heard counsel for the petitioner.

6. The 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.

7. 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.

8. 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.

9. This Court has to borne in mind that 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. The 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. Coming back to the present case in hand, it is abundantly clear that at the time of the death of the deceased employee, the petitioner was minor and, therefore, financial assistance was given to the wife of the deceased employee under the then Prevailing Rules “Haryana Government Compassionate Assistance to the Dependant of Deceased Government Employee, 2006” to fulfil and meet the object and purpose of the scheme.

11. Now the claim of the petitioner i.e., his case be considered under the new Policy of Ex gratia Appointment, 2019 is not maintainable as the father of the petitioner died in the year 2014 and at that time of death of his father, the aforesaid Rules, 2006 were applicable.

12. 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. Dehabrata 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.

13. Having examined the facts and the law in the light of objective for which the Rules, 2019 were framed, the petitioner cannot claim the benefit of appointment under the Rules, 2019, as these Rules cannot be applied retrospectively, in case of the petitioner. Also, it is an admitted fact that the

wife of the petitioner is already getting the monthly financial assistance to meet the financial hardship of the family.

14. Hence, no ground is made out for compassionate appointment/financial assistance.

15. Petition stands dismissed being devoid of merits.

24.07.2023
Sham

(SANDEEP MOUDGIL)
JUDGE

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