

**In the High Court of Punjab and Haryana at Chandigarh
111**

CWP No. 11577 of 2016

Date of Decision: 18.07.2023

Gurpreet Singh

---Petitioner

versus

Food Corporation of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. S.S.Rana, Advocate
for the petitioner
Mr. Abhishek Arora, Advocate for
Mr. Sumit Jain, Advocate
for the respondents

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Article 226/227 of the Constitution of India is seeking setting aside of order dated 24.04.2014 (Annexure P-12) whereby application of the petitioner seeking compassionate appointment has been rejected.
2. The case of the petitioner is that father of the petitioner joined office of respondent as handling labour on 01.05.2003 at Batala. He on 24.08.2007 died in harness. The petitioner on 17.09.2007 requested to Area Manager, FCI, Gurdaspur seeking appointment on compassionate ground as per prevailing policy of the respondents. The application was filed within time prescribed in the

policy, however, Area Manager did not forward application of the petitioner, resultantly, it came to be dismissed on the ground of delay.

3. Learned counsel for the respondents submits that from the original record of the Corporation, it is quite evident that application is not bearing date whereas petitioner in the present petition has enclosed application bearing date which indicates act and conduct of the petitioner. He further relies upon affidavit enclosed with the application i.e. Annexure R-1 which is bearing date 10.12.2013. The character certificate is also dated 20.11.2013. All these facts and documents collectively indicate that petitioner did not prefer application, as required in the policy, within stipulated period, thus, petitioner is not entitled to benefit of compassionate appointment. The petitioner has further approached this Court after 9 years from the date of death of the employee.

4. I have heard learned counsel for the parties and perused the record.

5. The information sought by the petitioner under RTI Act produced in the Court, is taken on record. Registry is directed to tag the same at an appropriate place.

6. From the perusal of record, it is evident that petitioner had filed undated application seeking appointment on compassionate ground, however, application enclosed with the present petition is bearing date. Information supplied by the Information Officer to the petitioner under RTI Act shows that three affidavits were enclosed alongwith application seeking appointment. The affidavits are of year

2007, however, Police Character Certificate is dated 20.11.2013 and certificate issued by village Panchayat is dated 20.01.2014. All these facts collectively indicate that facts are not clear and there are disputed questions of fact. It is settled proposition of law that writ jurisdiction cannot be invoked where disputed questions of fact are involved.

7. There is another aspect of the matter that petitioner is seeking appointment on compassionate ground. Family members of an employee who dies in harness are granted appointment on compassionate ground to prevent the family from being driven to destitution and vagrancy. The object of scheme of compassionate appointment is not to extend job to family of the deceased employee. Sole object is to protect the family from destitution and penury.

8. In the case in hand, father of the petitioner passed away on 24.08.2007. The petitioner preferred present petition in 2016 i.e. after the expiry of nine years from the date of death of his father. The intent and purport of immediate relief to the family of the deceased got diminished. There remains no need to extend help to the family of the deceased.

9. The Hon'ble Supreme Court in **Umesh Kumar Nagpal vs. State of Haryana 1994 SCC (4) 138** has adverted with object of the compassionate appointment scheme. The Hon'ble Court has held:-

“6. For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested

right which can be exercised at any time in future. 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, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over.

7. *It is needless to emphasise that the provisions for compassionate employment have necessarily to be made by the rules or by the executive instructions issued by the Government or the public authority concerned. The employment cannot be offered by an individual functionary on an ad hoc basis."*

10. Considering judgment of the Hon'ble Supreme Court in **Umesh Kumar Nagpal (supra)**, intent of the compassionate appointment policy, date of death of the employee, the date of filing present petition before this Court and disputed questions of fact, this Court does not find merit in the present petition.

11. The petition being devoid of merit deserves to be dismissed and accordingly dismissed.

(**JAGMOHAN BANSAL**)
JUDGE

18.07.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No