

CWP No.13818 of 2018

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP No.13818 of 2018
Judgment reserved on 10.01.2023
Pronounced on:31.01.2023

Kamaljit Kaur

... Petitioner

Vs.

Punjab and Haryana High Court and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Ms. Monika Sharma, Advocate
for the petitioner.

Ms. Savita Saxena, Advocate
for the respondents.

SUVIR SEHGAL J.

Petitioner has filed this petition for issuance of a writ in the nature of mandamus directing the respondents to appoint the petitioner on compassionate ground on account of untimely death of her father.

Facts are not in dispute. Late Parkash Singh, father of the petitioner, who was working as Chowkidar with respondent No.2 expired on 05.01.2003 during the course of his employment. He left behind his widow, Saravjeet Kaur and two minor children, Jeewan Singh and Kamaljit Kaur, present petitioner. Mother of the petitioner was an illiterate lady, not aware of the Govt. policies and could not apply for compassionate appointment. It has been averred that by doing manual jobs, she brought up both her children. Jeewan Singh, son of the deceased, was a middle pass and could not study further and was, therefore, not eligible for any public appointment.

On attaining majority, petitioner submitted an application in the year 2013

for appointment on compassionate basis. On 28.10.2014 (Annexure P-3),

respondent No.2 raised a query as to why her mother did not apply. Response was sent by the petitioner by letter dated 17.11.2014 (Annexure P-4) which was followed by representations and more queries from the respondents. Eventually by intimation dated 28.07.2017 (Annexure P-11), respondent No.2 informed the petitioner that her request for compassionate appointment has been declined by respondent No.1. Petitioner applied under the Right to Information Act, 2005 and was supplied with a copy of letter dated 21.07.2017 (Annexure P-13) issued by respondent No.1 considering and rejecting her request for appointment. Upon notice, petition has been contested by the respondents by filing a joint written statement admitting the employment of the petitioner's father with respondent No.2. Respondents have submitted that petitioner's mother never applied for appointment and the petitioner by way of an application dated 09.05.2013 (Annexure R-4) for the first time applied for the appointment on a compassionate basis when she was 22 years of age. It has been submitted that the petitioner has not approached the Court with clean hands and suppressed material facts. It is the stand of the respondents that even though there are instructions issued by the Punjab Govt. dated 03.07.2008 (Annexure R-9) that in case a deceased Govt. employee leaves behind minor children, who are studying and not qualified for appointment with the Govt., they may be allowed to apply for compassionate appointment within a period of one year from the date of attaining the age of majority and educational qualification for Group-C and Group-D posts, but the petitioner did not make the application within the prescribed time by the Govt. Reference has also been made to various letters sent by the petitioner to the respondents whereby she has sought extension in time for submitting the

application for appointment on compassionate grounds.

Counsel for the petitioner has argued that as the petitioner's father had died in harness leaving behind his family, who were left to take care of themselves. The petitioner on attaining the requisite educational qualification has applied for compassionate appointment, which has not been considered by the respondents.

On the other hand, counsel representing the respondents has submitted that no right vests in the petitioner to seek an appointment on compassionate ground, rather no claim for compassionate appointment survives due to efflux of time. Reliance has been placed by counsel for the respondents on the judgment of Hon'ble Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana (1994) 4 SCC 138** to urge that immediate urgency on account of death of Parkash Singh did not exist.

I have heard counsel for the parties at length and perused the paper book with their able assistance.

Father of the petitioner expired on 05.01.2003 when the petitioner was 12 years of age. Petitioner's mother never applied for compassionate appointment, though a stand has been taken by the petitioner that as she was illiterate, she was verbally informed that she will not be eligible for any Govt. employment and an oral assurance was given that one of her children would be appointed when he/she attains the age of majority. The petitioner gave an application seeking appointment on compassionate basis on 09.05.2013 (Annexure R-4), wherein she submitted that as she had attained the age of majority she may be given a job in place of her deceased father. Though she has claimed that there is no earning family member in the

family and the financial condition is not good, yet the financial status of the family has neither been explained in the petition nor before the respondent-authorities. By a subsequent communication dated 27.03.2017 (Annexure R-8), petitioner informed respondent No.2 that as she possesses qualification of senior secondary, she is eligible for the post of Peon which was difficult job for her being a girl. She requested that she should be considered for the post of Clerk on compassionate ground on completion of graduation. These facts rather go to show that the family was not in any financial crisis.

Moreover, the application submitted by the petitioner is not within the time period laid down in the instructions (Annexure R-9). Holding that a direction cannot be issued to the Govt. to consider a claim raised beyond the time line indicated in the circular, Hon'ble Supreme Court in **Haryana State Electricity Board Vs. Hakim Singh (1997) 8 SCC 85**, following the judgment in **Umesh Kumar Nagpal's case (supra)** has held as under:-

“12. We are of the view that the High Court has erred in over-stretching the scope of the compassionate relief provided by the Board in the circulars as above. It appears that High Court would have treated the provision as a lien created by the Board for a dependent of the deceased employee. If the family members of the deceased employee can manage for fourteen years after his death, one of his legal heirs cannot put forward a claim as though it is a line of succession by virtue of a right of inheritance. The object of the provisions should not be forgotten that it is to give succour to the family to tide over the

sudden financial crisis befallen the dependents on account of the untimely demise of its sole earning member.”

The settled position in law is that the rules or policy providing for compassionate appointment do not create a vested right in the dependents. Appointment on compassionate basis is provided to enable a family member dependent on a deceased Govt.employee to tide over the crisis faced by the family by sudden or untimely death of the employee. The appointment on compassionate ground is not another mode of recruitment but an exception which has been carved out to save the family from penury. A family member of a deceased employee cannot insist upon or choose a particular post for appointment and that too a decade after the death of the earning member. Such an insistence rather shows that there was no immediate need of the family rather it is actuated by greed to which there is no end.

For the foregoing reasons, this Court is of the view that no case is made out for issuance of direction to the respondents to provide a job to the petitioner.

Being bereft of merit, petition is dismissed.

(SUVIR SEHGAL)
JUDGE

January 31, 2023
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes