

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

LPA No.999 of 2021 (O&M)

Date of Decision: 09.05.2023

Subhash Chand

.....Appellant

Versus

Punjab National Bank and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Tushar Wadhwa, Advocate for
Mr. Sanjiv Gupta, Advocate for the appellant.

ARUN PALLI, J.

This is an *intra Court* appeal, under Clause X of the Letters Patent, against an order and judgment dated 02.03.2020, vide which the writ petition preferred by the appellant, assailing the rejection of his claim for appointment on compassionate grounds, was dismissed.

The facts that are required to be noticed are limited.

Father of the appellant (Malkiat Singh) was employed with the respondent-Bank as Peon/Daftri since 29.11.1983. He died in harness on 28.07.2015. The deceased was survived by his widow and a son (appellant). Accordingly, the appellant sought appointment on compassionate grounds in the clerical and sub staff cadre. The authorities, upon consideration of his claim found: that appellant was married and was 40 years of age with three grown up children. The family was in receipt of terminal dues of Rs. 13.66 lacs. And, besides other receivables of Rs.1.79 lacs, family pension of Rs.11,927/- per month. Further, the remaining service, the deceased was left with, at the time of death, was only 1 year

and 3 months. Thus, it was concluded that family was not indigent. Resultantly, vide order dated 05.03.2018, the appellant was denied appointment on compassionate grounds. Being aggrieved, he approached this Court, vide a writ petition, which, as indicated above, has since been dismissed.

We have heard learned counsel for the appellant and perused the records.

It would be expedient, to refer to clause-2 of the Scheme, at the outset, that was in vogue and in terms whereof the appellant had sought appointment, which read as thus:-

“Object of the Scheme:-

To enable family of a deceased employee/employee retired on medical grounds due to incapacitation before reaching the age of 55 years, tide over the sudden financial crisis.”

Concededly, the deceased, at the time of death, was 58 years and 9 months old. He had rendered 31 years and 9 months of service in the bank. And, thus, he was left with only 1 year and 3 months of remaining service. Therefore, father of the appellant (Malkiat Singh), being over 55 years of age, at the time of death, the appellant was not even eligible to seek appointment, under the Scheme (ibid). Faced with the situation, learned counsel for the appellant concedes this position.

Though, the void, the appellant and his mother had to bear with upon death of Malkiat Singh, could never be filled. But, analysing the position from a limited standpoint of considering a claim for appointment on compassionate basis, the factors that would assume significance are: A

period of nearly 8 years has elapsed, post death of the deceased. The records show that the appellant was aged about 40-41 years at the time of death of his father and would be 48-49 years old today. Concededly, he is married and has three grown up children. In the given circumstances, the possibility of his being gainfully employed or engaged in some profitable avocation cannot be ruled out. It would be apposite, at this stage, to refer to the observations recorded by the Supreme Court in **The State of West Bengal Vs. Debabrata Tiwari & Ors. etc. etc., 2023 SCC Online SC 219**, dated 03.03.2023, which read as thus:

“35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, Courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in *Hakim Singh* would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the

same is relative to the financial condition and hardship faced by the dependents of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee”.

The position of law is settled that purport and intent to afford an employment on compassionate grounds is to mitigate the unforeseen crisis or an emergency, the family is faced with, owing to the sudden demise of the deceased employee and to secure his family from any financial destitution. Furthermore, appointment on compassionate basis is not an alternate source of recruitment.

In the wake of the position, as sketched out above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

09.05.2023
Manoj Bhutani

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