

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

**CWP No.23443 of 2016
Date of decision : 25.01.2023**

Rajan Kumar Chaudhary

....Petitioner

Versus

The Punjab State Cooperative Milk Producers Federation Ltd.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. A.S. Chadha, Advocate
for the respondent.

PANKAJ JAIN, J. (ORAL)

By way of present writ petition filed under Article 226/227 of the Constitution of India, the petitioner seeks writ in the nature of mandamus in the form of directions to the respondents to grant compassionate appointment to the petitioner in the light of relevant Rules.

2. Father of the petitioner, Late Shri Moti Chand @ Moti Chand Chaudhary was working as Plant Operator with the respondent posted at Milk Plant, Chandigarh, who died on 16th of October, 2012. The petitioner claims that he applied for compassionate appointment on 8th of November, 2012. Admittedly, as per the pleadings raised in the writ petition, the petitioner was working with Cummins India Pvt. Limited at Jaipur, Rajasthan. Meaning thereby that he was employed and was not dependent

upon his father. Thereafter, the petitioner moved another application dated 26th of November, 2015 followed by reminder dated 2nd of January, 2016 claiming for consideration for employment on compassionate basis.

3. Per contra, respondent in his written statement has relied upon a communication dated 13th of July, 2013 sent by respondent to the petitioner, which reads as under :-

“No. MP/CHD/ADMN/3671
15.07.2013

Dated :

Sh. Rajan Kumar Chaudhary
S/o Late Sh. Moti Chand,
R/o H. No. 561, Phase-I,
Ramdarbar, Chandigarh.

Sub : Regarding experience certificate-employment under
priority quota.

This has reference to your request dated 09.11.2012
on the subject cited above.

In this connection, you are advised to send experience certificate from your employer regarding experience in Electrical and Mechanical Field as stated in your request by 19.07.2013 positively. Your experience certificate must clarify/specify the job profile & duties discharged by you. In case nothing is heard from you it shall be presume that you are not interested for job under priority quota.

Sd/-
General Manager
13.07.2013

4. Counsel for the petitioner does not dispute that the petitioner received the same but never responded.

5. Counsel for the respondent further refers to relevant Policy

applicable to the present case dated 16th of August, 1996 to submit that there was no Rule for relaxation in the educational qualification, age, experience or other prescribed conditions. The petitioner having failed to respond to the doubts raised related to his qualification, there was no reason for the respondent to grant employment to the petitioner on compassionate basis.

6. I have heard counsel for the parties and have gone through the records of the case.

7. The law w.r.t. compassionate appointment is well settled. The whole object of granting compassionate appointment is to enable the family to tide over the moment of crises that has arisen on account of death of sole bread earner. Mere death of an employee in harness does not give entitlement to the family to such source of livelihood. Compassionate appointment cannot be claimed after a significant lapse of time and even after the crises are over. Apex Court in the case of **State of Himachal Pradesh vs. Shashi Kumar, (2019) 3 SCC 653** elaborately dealt with the issue and held as under :-

“The decision in Govind Prakash Verma (supra) has been considered subsequently in several decisions. But, before we advert to those decisions, it is necessary to note that the nature of compassionate appointment had been considered by this Court in ***Umesh Kumar Nagpal v. State of Haryana, 1994(3) S.C.T. 174 : (1994) 4 SCC 138***. The principles which have been laid down in Umesh Kumar Nagpal (supra) have been subsequently followed in a consistent line of precedents in this Court. These principles are encapsulated in the following extract:

"2. ...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 nonmanual 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."

8. Apex Court in **Shashi Kumar's** case (supra) while dealing with the pertinence of the issue of delay *qua* claim of the compassionate appointment further held as under :

“We are not impressed with the submission that delay should not be taken into account since Paragraph 8 of the Scheme contemplates that in a situation where all the dependant children of the deceased employee have yet to attain the age of majority, the time limit for submission of an application is extended until the first of the children attains the age of twenty one years. A case where each of the children is a minor falls in a different class altogether. This cannot be equated with a situation where a dependant of a deceased employee who was a major on the date of death fails to submit an application within a reasonable period of time from the death of the employee. This aspect of delay has been dealt with in other decisions of this Court, including *State of J&K v. Sajad Ahmed Mir, 2006(3) S.C.T. 598 : (2006) 5 SCC*

766, para 11 and Local Administration Department v. M. Selvanayagam, 2011(2) S.C.T. 763 : (2011) 13 SCC 42, para 11, 12 and 13.

We see no reason or purpose in now directing the State to reconsider its decision in the case of the respondent which would only result in another round of fruitless litigation. In our view, the respondent is debarred from seeking compassionate appointment by the delay as well as by the lapse of time which has taken place.”

9. The claim of the petitioner as projected in the writ petition when gazed from the prism of aforesaid statement of law, this Court finds that the same sans merit.

8. About 11 years have passed since father of the petitioner died. The petitioner was already employed at the time of unfortunate demise of his father and the approach of petitioner remained casual through-out. Admittedly he opted to remain non responsive to Communication dated 13th of July, 2013. This only exhibits that the family was not in need and merely wished to net a government job. Present writ petition was also filed only in the year 2016. No ground to entertain the present writ petition for issuance of writ in the nature of mandamus is made out. Consequently, the instant writ petition is dismissed.

January 25, 2023

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No