

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

CWP-29428-2017

Date of decision : 08.11.2023

Baljeet Singh

...Petitioner

Vs.

State of Punjabd and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. A.S.Manaise, Advocate for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab.

Mr. T.V.S.Lehal, Advocate
for respondent Nos.2 and 3.

DEEPAK MANCHANDA, J. (Oral)

1. Petitioner-Baljeet Singh has filed this writ petition under Articles 226/227 of the Constitution of India seeking a writ in the nature of Certiorari for quashing the order dated 15.11.2017 (Annexure P-9) passed by respondent No.2 relating to compassionate appointment and further for issuance of writ in the nature of Mandamus directing the respondents to grant compassionate appointment to the petitioner in view of instructions/policy dated 27.12.2016 (Annexure P-5).

2. Briefly, the grievance of the petitioner as contained in the writ petition relates to denying him compassionate appointment by respondent No.- 2-Punjab State Cooperative Supply and Marketing Federation Ltd. As per the averments in the writ petition, petitioner's father namely, Baldev Singh Kang was an employee of respondent No.2, and was working as Operator, at Gidderbaha and retired on 11.02.2014 on attaining the age of superannuation.

Further, as per Punjab Govt. Instructions dated 27.02.2013 and upon request of

Baldev Singh, he was granted extension in service from 12.02.2014 to 11.02.2015. However, during the period of extension, he died on 16.02.2014,. After death of petitioner's father, petitioner submitted his application for appointment on compassionate ground and the same was forwarded by the District Manager Markfed, Shri Muktsar Sahib vide letter dated 11.07.2014 (Annexure P-2) to higher authorities. The application of the petitioner was consigned to records without giving any reasons vide letter dated 15.12.2014 (Annexure P-3) and even it was not clarified that his prayer has been rejected or postponed. Thereafter, vide letter dated 21.10.2014 (Annexure P-4), Department of Finance informed that those employees who died during extension in their service, their legal heirs will not be considered for employment on compassionate grounds. However, petitioner received a letter dated 28.02.2017 (Annexure P-6) from the department whereby he was asked to submit his application for compassionate appointment alongwith all required documents as the Govt had issued Instructions dated 27.12.2016 (Annexure P-5). Thereafter, petitioner submitted his application and the same was sent by the respondent No.3 to competent authority on 9/16.03.2017 (Annexure P-7), however, no decision has been taken, therefore, he has approached this Court through this CWP-16666-2017, which was disposed of vide order dated 31.07.2017 (Annexure P-8) by giving a direction to respondent No.1-Secretary, Department of Food, Civil Supplies and Consumer Affairs, Punjab to finalize the claim of the petitioner within a period of three months. In compliance of the order passed by this Court, respondent No.2 passed the impugned order dated 15.11.2017 (Annexure P-9) and rejected the claim of the petitioner on the ground that when the case of the petitioner was under process, Punjab Govt.

vide letter dated 29.03.2017 has withdrawn the instructions issued vide letter dated 27.12.2016, therefore, appointment of petitioner cannot be considered. Hence this writ petition.

3. Learned counsel for the petitioner has argued that the respondent No.2 has adopted the Punjab Government policy dated 27.12.2016 relating to compassionate appointment, but has not given any reason to give a retrospective effect w.e.f. 08.10.2012 and covers the claim of the petitioner, who had applied for the appointment on compassionate ground in the year 2014 on account of the death of his father, who passed away in the year 2014. According to him, the action of the respondents is arbitrary, therefore interference is called for by this Court. He prays that the writ in the nature of mandamus be issued directing the respondents to consider his claim for compassionate appointment.

4. On the other hand, learned counsel for the respondents while referring to the reply dated 06.11.2019 submits that the petition is not maintainable. He submits that case of the petitioner for appointment on compassionate grounds was reconsidered in view of the Govt.of Punjab Instructions dated 27.12.2016 and he was directed to submit requisite documents vide letter dated 28.02.2017, however, during the pendency of the same, Govt.of Punjab, through its letter dated 29.03.2017 withdrew instructions issued vide letter dated 27.12.2016, therefore, case of the petitioner could not be considered for appointment. He prays for dismissal of the present petition.

5. I have heard learned counsel for the parties and have gone through the material available on record.

6. After hearing learned counsel for the parties, this Court is of the view that appointment on compassionate grounds is not a source of recruitment as it is an exception to the general rule that recruitment to public services should be on the basis of merit, by an open invitation providing equal opportunity to all eligible persons to participate in the selection process. The dependants of employees, who die in harness, do not have any special claim or right to employment, except by way of the concession that may be extended by the employer under the rules or by a separate scheme, to enable the family of the deceased to get over the sudden financial crisis. The claim for compassionate appointment is therefore traceable only to the scheme framed by the employer for such employment and there is no right whatsoever outside such scheme. An appointment under the scheme can be made only if the scheme is in force and not after it is abolished/withdrawn. It follows therefore that when a scheme is abolished, any pending application seeking appointment under the scheme will also cease to exist, unless saved. The mere fact that an application was made when the scheme was in force, will not by itself create a right in favour of the petitioner.

7. Consequently, in view of the above discussion, this Court does not find it to be a fit case for exercise of extra ordinary writ jurisdiction.

8. Dismissed.

(DEEPAK MANCHANDA)
JUDGE

08.11.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No