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

CWP-24683-2022

Date of decision : 16.01.2023

Sunil Kumar

...Petitioner

Vs.

Union of India and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vijay Pal, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Sunil Kumar has filed this writ petition under Article 226 Constitution of India seeking a writ in the nature of Certiorari for quashing policy dated 06.05.2014 (Annexure P-1) 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 on account of death of his father on 13.11.2006.

Briefly, the grievance of the petitioner as contained in the writ petition relates to denying him compassionate appointment by respondent No.- 2- Bhakhra Beas Management Board, Chandigarh (in short Board). The scheme dated 06.05.2014 (Annexure P-1) specifically adopts policy promulgated by Punjab Government for compassionate appointment for the dependants of the deceased employees. As per the averments in the writ petition his father, namely, Krishan Kumar was an employee of respondent No.2-Board as Telephonist at Irrigation/Power Wing, Dhoolkot, Ambala, Haryana who died on 13.11.2006 while in service. After death of petitioner's

father, the revised Death-cum-Retirement Gratuity was paid to the petitioner's mother, namely, Smt.Pramod Bala on 12.04.2010 (Annexure P-3). The respondent No.2-Board while considering the issue of compassionate appointment decided to adopt the scheme formulated by the Government of Punjab and the same was made applicable only in respect of the cases of employees, who died after 16.04.2010. As a result of this, the case of petitioner did not fall within the consideration zone, therefore, his right to equality is violated. The petitioner's mother after coming into force of this scheme made an application on 16.06.2014 (Annexure P-4) before the respondent No.2/Board and alongwith the application, she also submitted certificate of petitioner's educational qualification-matriculation. The application was submitted in the year 2014, but till date, no decision has been taken, therefore, he has approached this Court through this writ petition.

Learned counsel for the petitioner has argued that the respondent No.2-Board has adopted the Punjab Government policy relating to compassionate appointment, but has not given any reason to give a retrospective effect only w.e.f. 16.04.2010, thus deprives the petitioner to seek compassionate appointment on account of the death of his father, who passed away in the year 2006. He has drawn the attention of the Court to the application dated 16.06.2014 submitted on his behalf with respondent No.2-Board and submitted that the same is pending undecided and perhaps because of the applicability of the policy dated 06.05.2014 (Annexure P-1) w.e.f. April 2010, his case is not being considered. According to him, the action of the respondents is arbitrary, discriminatory and violative of Articles 14 and 16 Constitution of India, 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 sympathetically.

After hearing learned counsel and considering the material on record, this Court finds that respondent No.2-Board has made the policy dated 06.05.2014 relating to compassionate appointment effective from 16.04.2010 onwards, meaning thereby that the dependant of those employees would be considered for appointment on this ground, who passed away on or after 16.04.2010. Further, as per the averments in the writ petition, the cause of action accrued to the petitioner firstly, when he lost his father in November, 2006, and secondly, when the policy dated 06.05.2014 was adopted by respondent No.2-Board, but he has chosen to approach this Court after a long delay in the year 2022.

During the course of hearing, it is not disputed by learned counsel that when petitioner's father died on 13.11.2006, petitioner was 21 years old and presently he is approximately 37 years of age. Thus, this Court has no hesitation in holding that the petition filed by the petitioner not only suffers from delay and laches, but is also without any merit. The argument by learned counsel that as the applicability of scheme (Annexure P-1) has been given retrospective effect only w.e.f.16.04.2010, therefore, it is discriminatory, is also misplaced as by now, it is well settled law that the compassionate appointment is an exception to the general rule of equality. Because, whenever the family or dependant of an employee faces sudden financial hardship on demise of the earning member, a helping hand is extended through compassionate appointment, and this kind of appointment can be offered only

in genuine cases, that too in the need of the hour, when the family is facing financial crisis. The concept of compassionate appointment is founded on sympathy, which does not live long, and if, with the passage of time, the family has come out of the tough times, then such a belated claim cannot be entertained.

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.

Dismissed.

(MANOJ BAJAJ)
JUDGE

16.01.2023
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No