

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22184-2023

Date of decision: 18.10.2023

Sandeep Sharma

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Thakan, Advocate for the petitioner

Sandeep Moudgil, J.

(1). The petitioner has filed the present writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution of India with a prayer for issuance of a writ in the nature of mandamus for directing the respondents to consider one family member of deceased employee for compassionate appointment.

(2). The father of the petitioner, namely, Ram Avtar, who was serving in the respondent-DHBVNL as Assistant Lineman, died in harness on 28.02.2002. The mother of the petitioner, on 19.06.2002 (Annexure P3), moved an application to the Executive Engineer, DHBVNL to appoint the petitioner, who was only 10 years of age, on his attaining the majority. However, instead of considering the petitioner for compassionate appointment, the respondents released financial assistance of Rs.2.5 lakhs in favour of the mother of the petitioner.

(3). As per Haryana Compassionate Assistance to the Dependents of Deceased Government Employees Rules, 2003, which came into effect w.e.f. 28.02.2003, it has been provided that in case of loss of bread-earner of the family, ex gratia appointment shall be granted to a member of the family or

ex gratia compassionate financial assistance of Rs.2.5 lakhs shall be paid to the family.

(4). Apart from above, the petitioner is also disentitled to make such a claim of compassionate appointment because at the time of death of the deceased employee, he was a minor and could not claim employment. He made a representation for compassionate appointment only 19.06.2002 and the petitioner was only 10 years of age and after attaining the age of majority on 24.01.2013, the petitioner made representation on 24.01.2013 (Annexure P7) i.e. after lapse of more than 11 years from the date of death of the deceased Govt. employee. The claim for compassionate appointment is belated one. Moreover, the dependents of the deceased employee have already been disbursed the financial assistance of Rs.2.5 lakhs in terms of Rule 2(ii) of the 2003 Rules wherein it has been provided that the family of deceased employee can either opt for compassionate employment to any family member and that too within 3 years of the demise of the employee or immediate financial assistance, which in the present case has been granted to the family members.

(5). It is settled principle of law that the compassionate appointment is not a source of recruitment. The very object and purport of the compassionate appointment is to enable the family in penury to overcome the immediate financial needs. At this belated stage compassionate appointment is impermissible under law.

(6). The Supreme Court in **Mumtaz Yunus Mulani Vs. State of Maharashtra & others reported as 2008(2) SCT 669**, made following observations:-

" Furthermore, about 12 years have passed. Appellant's son is aged about 20 years and daughter is aged about 16 years. Therefore, they have become major. Appellant herself would be aged about 38 years now. She cannot be given any appointment at this age."

(7). On the basis of the aforesaid judgment, this Court in case of **Mulkhraj Singh Vs. State of Punjab and others reported as 2009(4) S.C.T 87** has held as under:-

"It is now settled legal position that compassionate appointment is not a mode or source of recruitment. Such appointments are given purely on compassion and humanitarian grounds to enable the family of the deceased Govt. servant to overcome their minimum immediate financial needs. Compassionate appointment is an exception to the mandate of Articles 14 & 16 of the Constitution in the public interest. The petitioner, though, was not eligible at the time of death of his father but the Govt. in its wisdom granted him compassionate appointment even after 13 years of the death of his father. As a matter of fact the Govt. was not obliged to grant any such concession after such a long delay. Be that as it may, the compassion was shown and the petitioner accepted the appointment in the year 2002. What prompted the petitioner to move this petition after 6 years, is not evident from the averments made in the petition. The legal position in regard to the delay for such appointment and the right of an appointee on compassion to seek

appointment on a higher post has been considered by the Hon'ble Supreme Court in number of cases."

- (8). For the above reasons, this Court does not find any valid ground to interfere.
- (9). Dismissed.

18.10.2023
V.Vishal

(Sandeep Moudgil)

Judge

Yes/No

Yes/No

1. Whether speaking/reasoned?

2. Whether reportable?