

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

253

CWP-31833-2019

Date of Decision :-05.12.2023

Sachin

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jasmer Singh Rozera, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, prayer of the petitioner is for setting aside the order dated 07.10.2005 (Annexure P-11) by which, the prayer of the petitioner for the grant of benefit of compassionate appointment after the death of his father has been declined by the respondents.

2. As per the facts mentioned in the petition, father of the petitioner was working as Constable with the Haryana Police and while in service, he unfortunately died on 09.12.1996. As per the exgratia scheme, which was in operation at the relevant point of time, the dependents of the deceased employee could claim benefit of compassionate appointment or avail benefit of exgratia financial assistance. Mother of the petitioner immediately after the death of her husband filed an application with the respondents so as to grant the benefit of compassionate appointment to the petitioner, who was minor at that point of time.

3. Later on, the petitioner raised a claim for the grant of compassionate appointment after he attained the age of majority, which

prayer of the petitioner was rejected by the respondents vide impugned order dated 07.10.2005 (Annexure P-11), which order is under challenge in the present petition.

3. Learned counsel for the petitioner submits that the petitioner was fully entitled for the grant of benefit of compassionate appointment as mother of the petitioner immediately filed an application claiming the said benefit after the death of the father of the petitioner hence, the petitioner was entitled for the grant of benefit of compassionate appointment on attaining the age of majority but the said benefit has wrongly been denied to the petitioner by the respondents.

4. Upon notice of motion, the respondents have filed reply, wherein, it has been stated that as per the 2003 policy, which was in operation at the relevant point of time, dependents of the deceased employee were entitled to claim the benefit of compassionate appointment but the same could have only been given within a period of three years of the death of the deceased employee and not thereafter keeping in view the instructions, which were issued by the respondent-State in the year 1999.

5. Learned counsel for the respondents submits that in a similar set of circumstances, the claim was rejected by the Division Bench of this Court while deciding **LPA No.160-2021 titled as Tinku vs. State of Haryana and others decided on 22.03.2022**, hence, once even after expiry of three years of death of the father of the petitioner, the petitioner was minor, no benefit can be extended in favour of the petitioner on attaining the age of majority by him.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The only issue raised in the present petition is that once an application for the grant of compassionate appointment was filed immediately after the death of the father of the petitioner but the petitioner was minor at that relevant point of time, whether the petitioner is entitled for the grant of benefit of compassionate appointment on attaining the age of majority or not.

8. The said question has already been decided by the Division Bench of this Court in *Tinku (supra)* after considering the settled principle of law settled by the Hon'ble Supreme Court of India in *Umesh Kumar Nagpal vs. State of Haryana and others (1994) 4 SCC 138* wherein, it has been held that benefit of compassionate appointment can only be claimed within a period of three years of the death of the deceased employee and in case claimant is not eligible to claim the said benefit within a period of three years of the death of the deceased employee, no further claim can be raised.

9. Learned counsel for the petitioner has not been able to differentiate that the claim of the petitioner is not covered by the said judgment.

10. That being so, keeping in view the facts and circumstances of the present case coupled with the settled principle of law noticed hereinbefore, no ground for interference is made out by this Court and the writ petition is accordingly dismissed.

11. At this stage, learned counsel for the petitioner submits that in case the petitioner is not entitled for the grant of benefit of compassionate appointment, his claim for the grant of exgratia financial assistance is liable to be accepted by the respondents as the petitioner cannot be deprived of both the benefits provided under the scheme. Learned counsel for the

petitioner further submits that the claim of the petitioner for exgratia financial assistance has already been forwarded by the authority concerned but the same is not being decided from the last 18 years.

12. Nothing has come on record that the said claim of the petitioner has been decided by the respondents.

13. Once, the respondents have passed the impugned order declining the grant of benefit of compassionate appointment to the petitioner, the claim of the petitioner for the grant of exgratia financial assistance needs to be decided by the respondents as the petitioner cannot be denied both the benefits.

14. Keeping in view the same, the respondents are directed to decide the claim of the petitioner for the grant of exgratia financial assistance, which is pending consideration, within a period of two months from the date of receipt of copy of this order and in case after the decision, petitioner is found entitled for the relief, the same be extended to him within a period of further four weeks.

December 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No