

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

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CWP-1638-2024 (O&M)
Date of decision: 06.03.2024

Sukhdev Singh

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Manoj R. Sharma, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab

AMAN CHAUDHARY. J.

1. The prayer in the present Civil Writ Petition under Articles 226/227 of the Constitution of India, is to issue a writ in the nature of certiorari, for quashing the letter dated 31.03.2022, Annexure P-2 vide which the claim for seeking compassionate appointment has been rejected.
2. Learned counsel submits that the father of the petitioner, who was working as Constable expired on 14.12.2010 after rendering 18 years of service, at which time the petitioner was 17 years old. His brother, who was older than him, applied for compassionate appointment, which came to be rejected on account of the fact that the documents submitted by him were found to be forged. It is, therefore, that the petitioner filed an application for him to be considered against a Class-IV post along with dependent certificate dated 21.12.2018, Annexure P-1, which has been rejected vide order dated 31.03.2022, Annexure P-2, solely on the ground of delay of 4 years, 3 months and 24 days. He makes a reference to the Policy dated 21.11.2002, Annexure P-5, in particular to para 13(a), wherein, it has been provided that on special approval of the Personnel and

Finance Department, genuine belated requests can be considered within a period of 5 years. He also makes a reference to the Instructions dated 03.07.2008, Annexure P-6, that on humanitarian considerations, it has been decided as a special one time measure to extend the benefit of compassionate appointment to all old deserving cases. He thus prays for his case to be reconsidered.

3. Learned State counsel, on the other hand is unable to controvert that the Policy dated 21.11.2002 and Circular dated 03.07.2008 have not been taken into consideration while passing the impugned order dated 31.03.2022, however, submits that the application being belatedly filed was rightly rejected.

4. Heard learned counsels on both sides.

5. Before proceeding further, it would be apposite to refer to Circular dated 03.07.2008, wherein proviso below para 13 (a) was added, which reads thus:

“Provided that in the case where the deceased Government employee leaves behind his/her minor children, who are studying at the time of death of the employee and are not qualified for an employment in the Government and the spouse is not in a position to join the Government job, a dependent child may be allowed to apply for compassionate appointment by the Competent Authority, within a period of one year from the date of attaining the age and educational qualifications for a Group ‘C’ or ‘D’ appointment in Government.”

6. The rejection of his claim ignoring the aforesaid Circular/Instructions and on the lone ground of the application being filed belatedly, reeks of a lack of discernment and thoughtful consideration by the authorities.

7. The cornerstone of the matter is that on the claim of his elder brother being rejected, the petitioner sought to seek appointment on compassionate basis following the demise of his father. Despite being reassured, the Department took a substantial period of time to arrive at any conclusion. Blatant disregard was given to the dependent certificate submitted, and the request rejected, citing delay in applying for the same as the basis. Hon’ble the Supreme Court in **Ganesh**

Shankar Shukla vs. State of U.P., 2022 SCC OnLine SC 1908, wherein, as per Rule 5 of U.P. Recruitment of Dependents of Govt. Servants Dying in Harness Rules, 1974. a period of five years had been prescribed for filing the application seeking compassionate appointment, however since at the time of the death mother of the appellant, he and his sister were minor, it was held that the rigours of the above Rule would not be attracted. The operative portion of the judgment reads thus:

“9. Consequently, the present appeal is allowed in view of the peculiar hard facts of the case. The appellant to apply for compassionate appointment to the State, giving his educational qualifications within one week. Considering the said application, the respondent-State will make appointment within next two months.”

8. In **Canara Bank vs. M. Mahesh Kumar** 2015 (7) SCC 412, as well, it was observed that if the dependent of the deceased employee was a minor at the time of death, the offer of appointment on compassionate basis should be kept open for consideration till the minor attains the age of majority and becomes eligible for the same and should not have been rejected solely on the ground of lapse of time or delay.

9. On the aforesaid anvil, the ground of rejection of the claim of the petitioner is found to be untenable, thus, the impugned order is hereby set aside. As a corollary thereto, it is just and appropriate to direct the respondents to review their decision and if found eligible in terms of the policy, offer appointment to him, within a period of four months, from the date when a web-print of this judgement is received by the competent authority.

(AMAN CHAUDHARY)
JUDGE

06.03.2024

Hemant

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No