

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

116

CWP-2571-2024
Date of decision: 06.03.2024

Arjit Bhateja

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Balbir Singh, Advocate for the petitioner.

Mr. Swapan Shorey, DAG,

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/mandamus, for quashing the impugned order dated 17.11.2023, Annexure P-15, whereby the claim of the petitioner to grant him employment on compassionate ground on a Class-III post has been declined.
2. Learned counsel submits that when the petitioner was 13 years old, his mother died in harness on 25.12.2006, while working as Senior Assistant. His father remarried in 2008 and since then has been living with the second family, sans the petitioner. He completed his 10+2 in the year 2009-2011, qualifying him for the Group-D post. However, desirous of Group-C post, he enrolled himself for graduation in the year 2019 and after completing the same, applied for an appointment on compassionate basis in the year 2022. During the period from the year 2007 to 2018, he was suffering from acute depression, substantiating the said

record has been attached as Annexures P-5 to P-7. Respondent No.2 rejected the claim only on the ground of delay without taking into consideration the facts and circumstances of the case. With reference to instructions dated 03.07.2008, Annexure P-8, the petitioner after completing his graduation on 30.12.2020, within three months applied for employment on 24.03.2022, Annexure P-9. Reliance is placed on the judgment of this Court in **Paras vs. State of Punjab and others**, CWP-13979-2020, decided on 20.02.2024.

3. On the other hand, the learned State counsel is unable to controvert the circular dated 03.07.2008, however, submits that the application deemed belatedly filed was thus, rightly rejected.

4. Heard learned counsel representing either side.

5. Precedent to further discussion, it would be germane to refer to Circular dated 03.07.2008, wherein proviso below para 13 (a) was appended, which reads hence:

“ 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 solely on the ground of the submission of application being belated, betrays a lack of discernment on the part of the authorities.

7. It is apparent that the application for appointment on a compassionate basis as submitted by the petitioner, could not have been made priorly, due to him being a minor at the time of his mother’s death. The said application was

diligently sought by him upon acquiring the requisite age and educational qualifications, thereby necessitating the assertion of his entitlement for consideration for appointment as outlined by the policy of the State Government. Hon'ble the Supreme Court in **Ganesh Shankar Shukla vs. State of U.P. and another**, 2023 (176) FLR 936, 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 of mother of the petitioner, his sister and he 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 at the time of death, the dependent of the deceased employee was a minor, 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. Having considered the facts and circumstances of the case, in light of afore referred pronouncements of law, 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 would be just and appropriate to direct the respondents to reconsider the claim of the petitioner by duly assessing the same, and should he be

deemed eligible pursuant to the applicable policy, to extend to him an appointment within four months, from the date upon which an official web-print of this judgment is received by the competent authority.

06.03.2024

Hemant

(AMAN CHAUDHARY)
JUDGE

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