



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

223

CWP-4052-2021 (O&M)
Date of decision: 23.05.2024

Anupartap Singh
....Petitioner
Versus
State of Punjab and Others
...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ranjivan Singh and Ms. Kanika Toor, Advocates
for the petitioner

Mr. Swapan Shorey, DAG Punjab

AMAN CHAUDHARY. J. (ORAL)

1. The prayer in the present petition is for quashing of office order/communication dated 12.03.2020 issued by respondent No.2, whereby rejecting the claim of the petitioner for compassionate appointment on account of the death of his mother.
2. Learned counsel submits that Smt. Beerpal Kaur, who along with her husband Raj Kumar, had adopted the petitioner vide registered deed dated 10.02.2006, Annexure P-1 as they had no child from their wedlock, passed away on 26.08.2008, while working as Peon in the Office of Assistant, Excise and Taxation Commissioner, Bathinda, when he was 11 years old, whereas his father expired on 08.01.2013. After attaining majority, completing his 8th Class and obtaining the Legal Heir Certificate from the Tehsildar, the petitioner submitted an application in the prescribed proforma, Annexure P-7 along with the requisite documents for compassionate appointment, which was duly forwarded by



Assistant, Excise & Taxation Commissioner, Bathinda to the Commissioner, Excise & Taxation, Patiala vide letter dated 14.05.2019, Annexure P-9. Even the retiral benefits were released to him, for which he filed CWP-5267-2020, during pendency thereof he was granted the same, however, the claim for compassionate appointment was rejected. His case is squarely covered by the judgment of this Court in **Paras vs. State of Punjab and Others**¹. Relevant paras whereof read thus:

“XX XX XX

5. Before proceeding further, it would be apposite to refer to Instructions 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 petitioner could have applied for appointment on a compassionate basis after attaining the age and acquiring the educational qualifications, which he did. The rejection of his claim ignoring the aforesaid Instructions and on the ground of the application being filed belatedly, smacks of non-application of mind by the authorities.

7. It is evincible that the petitioner could not have submitted his application any time before he actually did, so as to claim the right of consideration for appointment on compassionate basis in terms of the policy of the State Government. Hon’ble the Supreme Court in **Ganesh Shankar Shukla** (supra), 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

¹ CWP-13979-2020, decided on 20.02.2024



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 a cumulative consideration of the peculiar facts and circumstances of the case, 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 consider the petitioner and if found eligible in terms of the policy, offer appointment to him, within a period of four weeks, from the date when a web-print of this judgment is received by the competent authority.”

- 3. Learned State counsel despite his best efforts, was unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law.
- 4. On the anvil of the aforesaid and as a fall out thereof, the impugned office order dated 12.03.2020 is hereby set aside and the petition is disposed of in terms of the judgment in **Paras** (supra).
- 5. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

23.05.2024
M.Kamra

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