

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-5351-2024 (O&M)
Date of decision: 06.03.2024

Simar Preet Singh ..Petitioner

Versus

State of Punjab and others ..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Chander Kant Rana, Advocate and
Ms. Shruti Rathour, Advocate for the petitioner.

Mr. Satnam Preet Singh, DAG, Punjab

AMAN CHAUDHARY, J

1. The prayer in the present Civil Writ Petition filed under Article 226/227 of the Constitution of India, is for issuance of a writ in the nature of certiorari quashing the impugned order/communication dated 01.08.2023 (Annexure P12) whereby claim for compassionate appointment has been rejected.
2. Learned counsel would contend that the father of the petitioner, who was working as Senior Clerk, expired in a road accident on 30.10.2000, while in service. His mother was offered an appointment on compassionate basis, which she could not accept on account of the petitioner being 2 years old and no one else to look after him. On 18.06.2015, when he was about to attain the age of majority, his mother had sent a representation dated 18.06.2015 to the respondent-Department for keeping the appointment reserved. She had started doing a private job as a JBT Teacher for earning her livelihood, but suffered paralytic attack (right side Hemiplegia with facial Nerve Palsy), consequently, was declared unfit to do any work. The petitioner applied for compassionate appointment on 04.06.2020 and an affidavit dated 14.08.2020 was submitted by

his mother *inter alia* stating therein that she has no objection, if her son is given the job, as she was bedridden and they were in dire need of money, since even her in-laws had passed away. It was also stated therein that the petitioner, after completing his 12th was pursuing B.Tech, which he completed on 08.04.2022. His case was forwarded to the DGP, Punjab by respondent No.4-Assistant Director General of Police, vide letter dated 14.03.2023, Annexure P8, observing therein that his case is found falling under the category of condoning the delay for an appointment on compassionate ground, mentioning the above facts. Again, vide letter dated 14.03.2023 the request for approval and condonation of delay was made by referring to policy dated 28.12.2005 and circular dated 03.07.2008. However, the claim was rejected vide order dated 01.08.2023, Annexure P12 without taking into consideration the aforesaid. 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, learned State counsel is unable to controvert that the Policy dated 28.12.2005 and circular dated 03.07.2008 have not been taken into consideration while passing the impugned order dated 01.08.2023, but submits that since there was a delay in filing the application, it was rightly rejected.

4. Heard learned counsel on either side.

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 the claim of the petitioner ignoring the aforesaid Circular/Instructions and on the ground of the application being filed belatedly, smacks of non-application of mind by the authorities.

7. The vital fact of the matter is that the respondent-Department had offered the appointment on compassionate basis to the mother of the petitioner shows that the inclination to grant the relief, however, he being too small at that time, she was unable to accept the same, which was requested by her to be kept in abeyance and was claimed by the petitioner, for which an affidavit was submitted by her. His case was even recommended by respondent No.4 to the Director General of Police-respondent No.2. During the interregnum, he had also attained the age of majority and acquired the educational qualification meant for the job. Unfortunately, she has become bed ridden on account of having suffered paralytic attack, by which she has lost her private job of a teacher, further plunging the family into penury. 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. In the overall conspectus of the case, the order dated 01.08.2023, Annexure P-12, is hereby set aside. Sequelly, respondents are directed to reconsider the matter in accordance with law, within a period of four months, from the date when a web-print of this judgement is received by the competent authority and if the petitioner is found to be entitled, offer him appointment.

06.03.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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