

CWP-15982-2019

2024:PHHC:104231-DB



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

CWP-15982-2019
Date of Decision: August 12, 2024

Kharaiti Singh

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Parminder Singh, Advocate for the petitioner.

Mr. Ashish Chaudhary, Senior Panel Counsel for respondent No.1.

LISA GILL, J.

1. Prayer in this writ petition is for setting aside order dated 05.04.2019 passed by learned Central Administrative Tribunal, Chandigarh Bench (for short – ‘the Tribunal’) whereby petitioner’s claim seeking employment on compassionate grounds has been dismissed.

2. Brief facts necessary for adjudication of the matter are that petitioner filed OA No. 060/00205/2017 while pleading that his father while working as Laboratory Assistant in the office of Director, Central Scientific Instrument Organization (CSIO) unfortunately passed away on 30.04.2013, leaving behind petitioner as the sole surviving member of the family, his mother having pre-deceased his father. An application was submitted by petitioner on

CWP-15982-2019

12.06.2013 for consideration of his case for appointment on the post of Peon/Chowkidar/Mali on compassionate basis. His claim was rejected by competent Committee in its meeting held on 23.09.2013, intimation of which was sent to petitioner on 03.04.2014. OA No. 060/00917/2014 filed by petitioner was disposed of by learned Tribunal vide order dated 14.10.2014, directing respondents to decide petitioner's claim by passing a speaking and reasoned order. Petitioner's claim was yet again rejected on 20.11.2014 on the ground that married son is not to be considered dependent on Government servant.

3. OA No. 060/00116 was filed by petitioner challenging order dated 20.11.2014. In the meanwhile, instructions dated 05.09.2016 were issued to the effect that in view of certain Court orders, it was decided that married son can also be considered for appointment on compassionate basis if he otherwise is eligible and fulfills criteria laid down in office Memo dated 16.01.2013. Petitioner's case was, accordingly, reconsidered by concerned Committee and his claim yet again rejected in view of objective to be achieved by the Scheme, financial aspects, number of dependent family members and other factors. Challenging said order dated 18.01.2017, OA in question was filed, which has been dismissed by learned Tribunal vide impugned order dated 05.04.2019.

4. Learned counsel for petitioner vehemently argued that merely because petitioner was married, his claim was incorrectly rejected at the initial stage and thereafter not allowed even on reconsideration despite there being no impediment in affording of the relief as claimed for. It is submitted that petitioner belongs to Scheduled Caste category and has no agricultural land. His case for appointment on compassionate basis should have been allowed. Learned Tribunal has wrongly rejected OA filed by petitioner while simply observing that appointment on compassionate basis is an exception carved out by judicial

CWP-15982-2019

pronouncements and that mere death of Government employee in harness does not entitle the family to claim compassionate appointment. It is, thus, prayed that this petition be allowed.

5. Learned counsel for respondents opposes the writ petition while submitting that learned Tribunal has passed impugned order dated 05.04.2019 correctly after proper application of provisions of law. It is, thus, prayed that this petition be dismissed.

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

7. Factual aspects of unfortunate demise of petitioner's father, submission of application by petitioner seeking appointment on compassionate basis, its rejection thrice and ultimate passing of order dated 05.04.2019 by learned Tribunal are all a matter of record. It is a settled position that employment on compassionate basis is not a vested right. It cannot be claimed or offered after lapse of time or after the crisis is over. The Hon'ble Supreme Court in **Umesh Kumar Nagpal Vs. State of Haryana and others, 1994(3) SCT 174** held that whole object of granting compassionate employment is to enable the family of deceased employee to tide over sudden crisis and to save the family from financial destitution. This favourable treatment given to dependent of the deceased employee was accepted as it bore a rational nexus to the object sought to be achieved viz. relief against destitution. It is further observed that compassionate appointment can't be claimed when the crisis is over and neither can it be offered on an ad hoc basis. Gainful reference in this respect can also be made to judgment of Hon'ble the Supreme Court in **State of Jammu and Kashmir Vs. Sajid Ahmed Mir, AIR 2006 (SC) 2743**, wherein it was held that grant of appointment on compassionate basis after lapse of considerable period

CWP-15982-2019

of time after the death of a Government employee would not be in furtherance of the object of a scheme for compassionate appointment. Gainful reference in this respect can also be made to judgment of Hon'ble the Supreme Court in **The State of West Bengal Vs. Debabrata Tiwari and others 2023 AIR (SC) 1467**. The Hon'ble Supreme Court in State of **Madhya Pradesh and others Vs. Amit Sriwas, 2020(10) SCC 496** has reiterated that there is no inherent right to appointment on compassionate basis. It is a right based on certain criteria and is to provide support to a needy family.

8. Moreover, petitioner's case was considered and rejected as he did not secure the necessary benchmark. Furthermore, it is to be noted that provision for appointment on compassionate basis is a clear departure from general provisions providing for appointment to a post. It is a settled position that appointment on compassionate basis is not a vested right available to any person and neither is it a mode of alternate recruitment. The same is a measure adopted by an employer to help the family of the deceased employee to tide over an immediate crisis which may arise on death of such employee or overcome the state of penury which visits them on such death.

9. Claim of the petitioner has been considered by competent Committee and rejected. Relevant part of intimation dated 18.01.2017 reads as under:-

“ You were not recommended for appointment on compassionate grounds keeping in view the objectives of the Compassionate Appointment Scheme, financial aspects, number of dependent family members left behind by the deceased Council Servant Late Sh. Sada Singh and financial assistance made available to you.”

CWP-15982-2019

10. On pointed query, learned counsel for petitioner informs that date of birth of petitioner is 15.10.1981, therefore, as of now he is nearly 43 years old. He has two children, one of them aged about 14/15 years old.
11. Learned counsel for petitioner is unable to point out any such circumstance which calls for interference by this Court. In the given factual matrix, we do not find any ground for setting aside order dated 05.04.2019 passed by learned Tribunal.
12. No other argument has been addressed.
13. Keeping in view the facts and circumstances as above, order dated 05.04.2019 passed by learned Tribunal is upheld and this writ petition is dismissed with no order as to cost.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

August 12, 2024
Rts

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